# NOTE

This Microfiche meets the quality requirements of the American National Standard for Microfiche of Documents (ANSI PH5.9-1975). However, because of imperfections in the document from which it was made, it contains images that are illegible or difficult to read. The source document for this microfiche is the best copy that could be obtained prior to filming.

Congressional Information Service
Washington, D.C.

# ACCOUNTING CONTROL PROBLEMS IN THE U.S. CUSTOMS SERVICE'S COLLECTION PROCESS AND FORFEITURE FUND

## HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT

OF THE

## COMMITTEE ON WAYS AND MEANS
## HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

APRIL 17, 1989

**Serial 101-31**

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PRINTING OFFICE

21-428 WASHINGTON : 1989

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

H781-74

## COMMITTEE ON WAYS AND MEANS

DAN ROSTENKOWSKI, Illinois, *Chairman*

SAM M. GIBBONS, Florida
J.J. PICKLE, Texas
CHARLES B. RANGEL, New York
FORTNEY PETE STARK, California
ANDY JACOBS, JR., Indiana
HAROLD FORD, Tennessee
ED JENKINS, Georgia
RICHARD A. GEPHARDT, Missouri
THOMAS J. DOWNEY, New York
FRANK J. GUARINI, New Jersey
MARTY RUSSO, Illinois
DON J. PEASE, Ohio
ROBERT T. MATSUI, California
BERYL ANTHONY, JR., Arkansas
RONNIE G. FLIPPO, Alabama
BYRON L. DORGAN, North Dakota
BARBARA B. KENNELLY, Connecticut
BRIAN J. DONNELLY, Massachusetts
WILLIAM J. COYNE, Pennsylvania
MICHAEL A. ANDREWS, Texas
SANDER M. LEVIN, Michigan
JIM MOODY, Wisconsin

BILL ARCHER, Texas
GUY VANDER JAGT, Michigan
PHILIP M. CRANE, Illinois
BILL FRENZEL, Minnesota
DICK SCHULZE, Pennsylvania
BILL GRADISON, Ohio
WILLIAM M. THOMAS, California
RAYMOND J. McGRATH, New York
HANK BROWN, Colorado
ROD CHANDLER, Washington
E. CLAY SHAW, JR., Florida
DON SUNDQUIST, Tennessee
NANCY L. JOHNSON, Connecticut

ROBERT J. LEONARD, *Chief Counsel and Staff Director*
PHILLIP D. MOSELEY, *Minority Chief of Staff*

### SUBCOMMITTEE ON OVERSIGHT

J.J. PICKLE, Texas, *Chairman*

BERYL ANTHONY, JR., Arkansas
RONNIE G. FLIPPO, Alabama
BYRON L. DORGAN, North Dakota
HAROLD FORD, Tennessee
CHARLES B. RANGEL, New York
ANDY JACOBS, JR., Indiana

DICK SCHULZE, Pennsylvania
RAYMOND J. McGRATH, New York
ROD CHANDLER, Washington
E. CLAY SHAW, JR., Florida

# CONTENTS


Page

Press release of Thursday, April 13, 1989, announcing the hearing ..... 2

WITNESSES

U.S. General Accounting Office, James R. Watts, Associate Director, Information Management and Technology Division; Joseph T. McDermott, Assistant Director; and David B. Alston, Evaluator-in-Charge ..... 6

U.S. Department of the Treasury, David M. Nummy, Acting Assistant Secretary of the Treasury for Management; Samuel T. Mok, Comptroller; Michael T. Smokovich, Assistant Commissioner for Federal Finance, Financial Management Service; and Maurice S. Moody, Director of Audit for Financial Management Service, Office of the Inspector General ..... 100

U.S. Customs Service, Michael H. Lane, Deputy Commissioner, and William F. Riley, Comptroller ..... 128

Gibbs, Linda, Management Adviser, Office of the Comptroller, U.S. Customs Service, and former Director, Office of Financial Management and Program Analysis, U.S. Customs Service ..... 33

# ACCOUNTING CONTROL PROBLEMS IN THE U.S. CUSTOMS SERVICE'S COLLECTION PROCESS AND FORFEITURE FUND

---

MONDAY, APRIL 17, 1989

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON OVERSIGHT,
*Washington, DC.*

The subcommittee met, pursuant to call, at 1 p.m., in room 1100, Longworth House Office Building, Hon. J.J. Pickle (chairman of the subcommittee) presiding.

[The press release announcing the hearing follows:]

FOR IMMEDIATE RELEASE
THURSDAY, APRIL 13, 1989

PRESS RELEASE #7
SUBCOMMITTEE ON OVERSIGHT
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1105 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-5522

THE HONORABLE J. J. PICKLE (D., TEXAS), CHAIRMAN,
SUBCOMMITTEE ON OVERSIGHT, COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES,
ANNOUNCES A HEARING
ON THE LACK OF ACCOUNTING CONTROLS IN THE U.S. CUSTOMS SERVICE'S
COLLECTION PROCESS

---

The Honorable J. J. Pickle (D., Texas), Chairman of the Subcommittee on Oversight, Committee on Ways and Means, U.S. House of Representatives, announced today that the Subcommittee will conduct a hearing to examine the lack of necessary accounting controls in the U.S. Customs Service's automated revenue-collection process and forfeiture fund. A recent Subcommittee investigation has revealed cases of Customs Service employee thefts of duty collections, and accounting control systems which allow such activities to go undetected. The hearing has been scheduled for Monday, April 17, 1989, beginning at 1:00 p.m., in the main Committee hearing room, 1100 Longworth House Office Building.

The Subcommittee will examine recent cases involving employee embezzlement of funds, and internal controls within the Customs Service, to determine whether Customs' financial system has adequate fund-control procedures. Specifically, the Subcommittee will address the following issues: (1) whether there are adequate procedures for reconciling receipts and deposits of Customs duties and other revenues; (2) whether there are sufficient controls in the collection and deposit processes to deter and detect the misappropriation of collected duties; and, (3) whether there are adequate internal controls to ensure the financial integrity and accountability of forfeiture fund operations.

The Subcommittee will receive testimony from representatives of the General Accounting Office, the Department of the Treasury, and the U.S. Customs Service.

In announcing the hearing, Chairman Pickle made the following statement: "If I sent someone to the bank to deposit one of my checks and he returned with a deposit slip for an amount less than my check, I know I'd be very curious and demand an explanation. For years, there have been discrepancies between the amounts of duties collected by Customs, and the amounts deposited in banks for the Federal government. Customs has known for some time about these discrepancies--totaling millions of dollars--and has done nothing.

"I am aware of several instances where persons have pocketed Customs funds they were supposed to deposit in the bank. In one instance, a Customs employee has been convicted of embezzling Customs deposits. It took Customs more than a year to detect the theft, and Customs might never have discovered it if a passenger had not come forward to inquire about an uncashed check. In another case, a courier is alleged to have stolen millions of dollars in Customs deposits over a three-month period. Customs never detected the thefts. Customs learned of the thefts from the courier's employer.

"These instances of fraud are troubling in themselves. More mportantly, they are symptomatic of a bigger problem--the lack of accountability in Customs' collection process. It looks to me like Customs needs to make some significant improvements in the identification and reconciliation of unmatched collections and deposits."

**DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:**

Persons submitting written comments for the printed record of the hearing should submit six (6) copies by the close of business, Friday, May 19, 1989, to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515.

**SEE FORMATTING REQUIREMENTS:**

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will **not** be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.
4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and public during the course of a public hearing, may be submitted in other forms.

Chairman PICKLE. The chairman will ask the subcommittee to please come to order.

We ask our witnesses to please take their seats.

Our hearing today is the fourth in a series of hearings on the operations of the U.S. Customs Service. The Oversight Subcommittee began this series last summer. In addition, subcommittee members have visited Customs facilities in Miami and New Orleans. We expect to visit the Port of Houston in June, and several other ports later in the year. We also expect to hold more hearings, as necessary, later this session.

Today we focus on the Customs Service's accounting controls—or maybe I should say, lack of accounting controls. Our attention was first drawn to this issue by two incidents of theft of Customs funds. In one incident, the Los Angeles Customs employee, who was responsible for preparing cash receipts and bank deposits, altered or destroyed documents and pocketed the money. In a second incident, a courier service employee in Chicago stole the Customs collections of cash and checks he had been given to deposit in a bank. In preparing for this hearing, we have heard of even more allegations of misappropriation of Customs funds.

Because of these incidents, the Customs Service lost millions of dollars in duty collections and other revenues. What is more troubling than the amount of money lost by Customs, however, is the fact that the agency itself never caught up with the wrongdoers. In Los Angeles, the thefts went on for over a year. Customs might never have caught up with the thefts had an international traveler not inquired about a check which had never been cashed. In Chicago, there were discrepancies in the amounts of Customs bank deposits on at least 10 occasions over a 2-month period. Still, Customs never discovered the thefts; it was the courier service who informed Customs about them.

The failure of Customs to detect these thefts is, I think, indicative of the fact that Customs accounting controls are just not very effective. In fact, I am being kind by calling them controls. After all, these were not very sophisticated schemes. In fact, when the Los Angeles employee was convicted of embezzlement, the trail judge said that the thefts were the result of a "situation created by the Customs Service which enabled one without great skill" to misappropriate funds. As for the Chicago incident, it doesn't take a Wall Street financier to realize that something is wrong when your deposit slip doesn't match up with your receipt.

Customs tracks—or at least tries to keep track of—its collections and deposits on the automated commercial system [ACS]. It doesn't appear, however, that this system works very well. We have looked over Customs records for the past year. There is not 1 month where Customs collections equal Customs deposits. We will be interested to hear why. In addition, Customs most recent monthly statement shows that there are about $53 million in undeposited collections that do not appear to be supported by accounting records. For some time Customs and Treasury have known about the problems with the system, but little has been done to fix it.

Last year, Customs reported that it collected more than $17 billion in revenues. Unfortunately, after our preliminary investigation, we can't be sure of how much was collected or how much of

what was collected actually made it to the bank. With the increase in imports into this country, pressures on the Customs collection process will only increase. Customs handles tens of millions of transactions. With a system of this size, we can't afford to have sloppy accounting controls.

Now let me recognize Mr. Schulze for his opening statement about the hearings on Customs accounting procedures or anything about this.

Mr. Schulze.

Mr. SCHULZE. Thank you, Mr. Chairman.

I am pleased to join you in opening our hearing on the accounting controls in the U.S. Customs Service.

The accounting controls at the U.S. Customs Service are a sad example of the old "good news-bad news" jokes. The good news is that the Customs Service is projected to collect $18 billion in customs duties in fiscal year 1990. The bad news is that a significant amount of this money may never actually be deposited in the Government's bank account. Where is the missing money? Some of this discrepancy may result from a poor accounting system but part of it results from outright criminal theft.

There may be a few "bad apples" in any organization. But the disturbing point of the Customs Service situation is that its poor accounting controls appear to have made it especially vulnerable to exploitation by bad employees and contractors.

This makes one wonder how many other cases of employee skimming may be occurring which the Customs Service cannot detect on its own.

Another example of poor accounting safeguards, that I have taken a personal interest in, involves the management of the forfeiture fund. Changes were made in the 1988 drug bill to stop the so-called netting practice—I want assurances today that this practice will be stopped.

There are also allegations of fraud involving activities of the seized property contractor—Northrop Corp. I want to make it clear that none of the questions to be asked today are intended to interfere with the ongoing grand jury investigation of Northrop by the U.S. attorney, Bob Wortham, in Texas. However, the taxpayer deserves to have basic information about the seized property program put on the record now—so they can be assured that future operations will not be left open to abuse.

This is especially important since the property contract is open for recompetition this year.

Mr. Chairman, accounting controls are an obscure topic to most people. But the lack of proper accounting safeguards is like leaving the bank vault open and unguarded. The problems with Customs' accounting systems have been studied and documented for years. It is time to stop studying, and time to take quick and effective action to stop these and future instances of fraud and abuse of the public trust.

Mr. Chairman, I look forward to hearing today's witnesses and getting some straight answers to these charges.

Chairman PICKLE. Thank you.

Any other committee member want to make a statement?

Mr. McGrath.

Mr. McGRATH. Thank you, Mr. Chairman.

Mr. Chairman, I wish to express my appreciation for your leadership and interest in this important effort to review the activities of the U.S. Customs Service. A tremendous growth in international trade over the last two decades has increased the complexity of the tasks facing the Customs Service.

I am very disappointed about some of the information we received in advance of today's hearings.

I am particularly concerned over the apparent gaps in the Customs Service automated commercial system, the nationwide computer network. In the past I have joined Customs officials in advocating the use of the system by brokers and others involved in import operations.

The magnitude of the problems may require expensive alterations for Government and private sector participants in the automated commercial system. This will severely damage my personal credibility and that of Customs in further efforts to modernize our system in the processing of entries and collecting duties.

It will also add much more expense to the computerization program which already costs several hundred million dollars. The new ACS problems are in addition to the difficulties with other functions in the system we learned about in prior hearings.

Again, Mr. Chairman, I applaud your persistence and interest in this area of national policy which we have uncovered in prior hearings and which we are about to uncover today.

Chairman PICKLE. All right.

Our first witness today then would be James R. Watts.

Mr. Watts, if you and any members of your staff want to come forward.

Mr. Watts, is the Associate Director of the Information Management and Technology Division of the General Accounting Office.

I presume you are being accompanied by Joseph T. McDermott, Assistant Director and David B. Alston, the Evaluator in Charge.

Mr. Watts, we will be glad to have your testimony.

**STATEMENT OF JAMES R. WATTS, ASSOCIATE DIRECTOR, INFORMATION MANAGEMENT AND TECHNOLOGY DIVISION, U.S. GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY JOSEPH McDERMOTT, ASSISTANT DIRECTOR AND DAVID B. ALSTON, EVALUATOR-IN-CHARGE**

Mr. WATTS. Mr. Chairman, and members of the subcommittee, we are pleased to be here today to discuss the internal controls Customs uses to account for the revenues it collects on imported merchandise. In fiscal year 1988, it collected about $17.5 billion in duties, tariffs, and taxes. My testimony is based on an interim report we issued to you last Tuesday. The information we have gathered raises serious questions about the adequacy of Customs manual and automated internal controls.

Two problems highlight the seriousness of the situation. First, during the last 2½ years over $4.2 million were stolen in two separate frauds, without being detected by these controls. Second, Customs is unable to reconcile recorded collections with recorded de-

posits, as of February 1989, collections exceeded deposits by the cumulative amount of about $54 million.

Because our work is preliminary, we have not yet determined the root causes of these internal control problems. While Customs and Treasury officials have been aware of the problems since at least 1987, they have taken little corrective action. In the last few months top management at Customs has been spurred into action as a result of a management assessment report, which concluded that the revenue collection process has been in total disarray since at least 1985. As a result, Customs formed at task force last month to analyze the problems and develop solutions.

Before I discuss these problems in more detail, I would like to take a couple of minutes to describe the process Customs follows to collect and account for revenues. At the heart of the process is the automated commercial system.

The chart on my right shows that when merchandise valued over $1,000 is imported into the United States, brokers and importers must file documents with Customs describing the merchandise. Within 10 days after Customs releases the merchandise, brokers and importers must pay all duties, tariffs, and taxes.

When Customs officials at U.S. ports receive the documents and payments, data from the documents and the amount of each payment are entered into ACS as a collection. Later in the day, cashiers total all checks and cash received and enter the total into ACS as the amount deposited for that day. Each day, cashiers are required to compare the total collections entered at each terminal with the total daily deposits. If the two totals do not agree, the terminal cannot be closed out until the discrepancies are resolved.

Deposit packages containing the day's collections are prepared and sent to a commercial or Federal Reserve Bank. Deposit tickets confirming the receipt of funds are forwarded by the banks to Customs National Finance Center in Indianapolis. Banks later confirm the actual amount of funds received and prepare adjustments for such items as shortages or counterfeit bills. Data on these deposits and adjustments are then forwarded to the National Finance Center and to the Treasury.

By the eighth working day after the end of each month, Customs sends a statement of accountability to Treasury, summarizing total collections and total deposits. About a month later, Treasury sends a statement of differences to Customs, detailing any differences between the deposits reported by the banks and the deposits reported by Customs.

To illustrate the weaknesses in Customs internal controls, I would like to describe in more detail the two frauds mentioned earlier. One of these frauds occurred at the Port of Chicago. It involved 10 thefts totaling over $3.4 million and extended over a 2-month period from May 26 to August 2, 1988. Information was entered into ACS showing that collections were made and deposited in a bank.

These deposits had, in fact, been given to a courier to take to the Federal Reserve Bank, but the deposits never got there.

Customs officials stated that these thefts were not detected until about 2 months after the initial May 26 theft when the courier company became suspicious of one of its employees. The company

then notified the Chicago Police Department, which in turn, contacted port officials on August 4, 1988, to investigate the alleged thefts.

In the other fraud, a former Customs employee at the Los Angeles International Airport was recently convicted on 21 counts of embezzling about $840,000 in Government funds during a 1-year period. This employee was responsible for preparing deposit documents and forwarding collection data for input into ACS.

The employee did not deposit funds received. Instead, the employee destroyed and, in some cases, altered serially numbered forms, which are used to record the collection of duties and taxes from arriving passengers.

Instead of basic controls detecting the thefts, Customs officials said that the thefts were discovered when they received an inquiry from a former passenger asking why Customs never cashed the passenger's check for a duty payment.

Another major indication of internal control weaknesses is Customs' inability to reconcile collections recorded in ACS with deposits. As stated earlier, Customs must send a statement of accountability to Treasury each month to summarize collections and deposits and account for any differences.

However, because Customs has been unable to reconcile the two amounts for the last several years, it has had to derive a figure—that is, a "plug" figure—so collections and deposits balance.

To maintain accountability, this figure must be carried forward each month. This figure has always been necessary to account for recorded collections being greater than recorded deposits.

As you see in chart 2, the unreconciled balance has been a long-standing problem. Since fiscal year 1984, Customs has reported an unreconciled balance at the end of each quarter ranging from a high of about $194 million to a low of about $27 million.

This amount began to grow again in fiscal year 1988 and is now in the $50 to $55 million range. Chart 3 shows, on a monthly basis, the growth in this cumulative unreconciled amount, which ranged from about $27 million to a high of $61 million from September 1987 through February 1989. In March 1989, it increased again.

Because of software limitations and the lack of documentation to support this figure, however, it is impossible to determine at this time whether any money is, in fact, missing.

Customs has been aware of these internal control problems for quite some time.

In February 1987, we reported two major weaknesses in ACS internal controls: First, individuals had access to ACS functions beyond those necessary to perform their jobs, and second, software test plans were not adequate to ensure that serious software errors would be detected.

In 1987 and in 1988, Treasury reported to the President and the Congress, in its Federal Manager's Financial Integrity Act reports, that Customs accounting systems and revenue collection process has material internal control weaknesses.

A Customs Internal Affairs report in December 1988 cited significant internal control problems. It concluded that Customs does not have enough assurance that all funds received by Customs are deposited and properly credited to Treasury.

As a result of these and other studies, Customs management assessed the situation and concluded in December that the revenue collection process has significant internal control problems.

The report also pointed out that the commitment of resources to solve the problem had not received the priority commensurate with the magnitude of the system's deficiencies.

The assessment concluded that without the necessary management attention and adequate resources, the financial accounting systems will not meet required Federal standards and will continue to result in material weaknesses.

In summary, Mr. Chairman, our preliminary work has disclosed some longstanding serious weaknesses in controls over the collection and deposit of revenues. Because these controls are supposed to account for $17.5 billion per year, top management at Customs must ensure that the root causes of these weaknesses are identified and resources committed to their prompt correction.

Mr. Chairman, this concludes my prepared statement. I will be happy to respond to any questions at this time.

[The statement of Mr. Watts follows:]

STATEMENT OF JAMES R. WATTS, ASSOCIATE DIRECTOR,
INFORMATION MANAGEMENT AND TECHNOLOGY DIVISION,
U.S. GENERAL ACCOUNTING OFFICE

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss the internal controls Customs uses to account for the revenues it collects on imported merchandise. In fiscal year 1988, it collected about $17.5 billion in duties, tariffs, and taxes. My testimony is based on an interim report[1] we issued to you last Tuesday. The information we have gathered raises serious questions about the adequacy of Customs' manual and automated internal controls.

Two problems highlight the seriousness of the situation. First, during the last two and one half years over $4.2 million was stolen in two separate frauds, without being detected by these controls. Second, Customs is unable to reconcile recorded collections with recorded deposits; as of February 1989, collections exceeded deposits by the cumulative amount of about $54 million.

Because our work is preliminary, we have not yet determined the root causes of these internal control problems. Although Customs and Treasury officials have been aware of these problems since at least 1987, they have taken little corrective action. However, in the last few months top management at Customs has been spurred into action as a result of a December 1988 management assessment report, which concluded that the revenue collection process ". . . is and has been in total disarray since at least 1985." As a result, Customs formed a task force last month to analyze the problems and develop solutions.

## OVERVIEW OF REVENUE COLLECTION PROCESS

Before I discuss these problems in more detail, I would like to take a couple of minutes to describe the process Customs follows to collect and account for revenues. At the heart of the process is the Automated Commercial System. This system provides automation support for the revenue collection process within Customs.

When merchandise valued over $1,000 is imported into the United States, brokers and importers must file documents with Customs describing the merchandise. Within 10 days after Customs releases the merchandise, brokers and importers must pay all duties, tariffs, and taxes.[2]

When Customs officials at U.S. ports receive the documents and payments, data from the documents and the amount of each payment are entered into ACS as a collection. Later in the day, cashiers total all checks and cash received and enter the total into ACS as the amount deposited for that day. Each day, cashiers are required to compare the total collections entered for each terminal with the total daily deposits. According to Customs, if the two totals do not agree, the terminal can not be closed out until the discrepancies are resolved.

Deposit packages containing the day's collections are prepared and sent to a commercial or Federal Reserve Bank. (See chart 1.) Deposit tickets confirming the receipt of funds are forwarded by the banks to Customs National Finance Center in Indianapolis. Banks later confirm the actual amount of funds received and prepare adjustments for such items as shortages or counterfeit

---

[1]CUSTOMS AUTOMATION: Internal Control Weaknesses In Customs' Revenue Collection Process (GAO/IMTEC-89-50, Apr. 11, 1989).

[2]A person entering the United States must also file certain documents at the port of entry declaring any imported merchandise being brought into the United States. Any duties, tariffs, or taxes assessed by the port officials must be paid immediately, before the merchandise can enter the United States.

bills. Data on these deposits and adjustments are then forwarded to the National Finance Center and Treasury.

By the eighth working day after the end of each month, Customs sends a Statement of Accountability to Treasury, summarizing total collections and total deposits. About a month later, Treasury sends a Statement of Differences to Customs, detailing any differences between the deposits reported by the banks and the deposits reported by Customs.

CONTROL WEAKNESSES:
THEFTS OF $4.2 MILLION

To illustrate the weaknesses in Customs' internal controls, I would like to describe in more detail the two frauds mentioned earlier. These frauds resulted in the theft of about $4.2 million in revenues, and were perpetrated for extended periods of time without detection by Customs' internal controls.

One of these frauds occurred at the Port of Chicago. It involved 10 thefts totaling over $3.4 million and extended over a 2-month period from May 26 to August 2, 1988. Information was entered into ACS showing that collections were made and deposited in a bank. These deposits had, in fact, been given to a courier to take to the Federal Reserve Bank, but the deposits never reached their intended destination.

Customs officials stated that these thefts were not detected until about 2 months after the initial May 26 theft when the courier company became suspicious of one of its employees. The company then notified the Chicago Police Department, which in turn, contacted port officials on August 4, 1988 to investigate the alleged thefts. According to Customs officials, it took 11 days to research the files to identify the missing deposits.

These Chicago thefts were not detected by Customs' controls because ports do not receive copies of confirmed deposit tickets from banks; instead, tickets are sent to Customs National Finance Center. However, the center does not use the deposit tickets to verify that deposits were received; it relies on bank deposit data from Treasury, but the center does not receive this data until about 2 months after the deposit date.

In the other fraud, a former Customs employee at the Los Angeles International Airport was recently convicted on 21 counts of embezzling about $840,000 in government funds during a 1-year period. This employee was responsible for preparing deposit documents and forwarding collection data for input into ACS. The employee did not deposit funds received. Instead, the employee destroyed and, in some cases, altered serially numbered forms, which are used to record the collection of duties and taxes from arriving passengers. These numbers are entered into ACS with the amount collected so that any missing documents can later be identified.

According to an Internal Affairs investigation, error listings were not being researched to determine why certain serially numbered documents were missing. Instead of basic internal controls detecting the thefts, Customs officials said that the thefts were discovered when they received an inquiry from a former passenger asking why Customs never cashed the passenger's check for a duty payment.

CONTROL WEAKNESSES:
INABILITY TO RECONCILE

Another major indication of internal control weaknesses is Customs' inability to reconcile collections recorded in ACS with deposits. As stated earlier, Customs must send a Statement of Accountability to Treasury each month to summarize collections and deposits and

account for any differences. However, because Customs has been unable to reconcile the two amounts for the last several years, it has had to derive a figure--that is, a "plug" figure--so collections and deposits balance. To maintain accountability, this figure must be carried forward each month. Customs' records show that this "plug" figure actually represents a cumulative unreconciled balance. This figure has always been necessary to account for recorded collections being greater than recorded deposits. As of February 28, 1989, this cumulative unreconciled balance was about $54 million.

As you can see in chart 2, the unreconciled balance has been a long standing problem. Since fiscal year 1984, Customs has reported an unreconciled balance at the end of each quarter ranging from a high of about $194 million to a low of about $39 million. This amount began to grow again in fiscal year 1988 and is now in the $50 to $55 million range. Chart 3 shows, on a monthly basis, the growth in this cumulative unreconciled amount, which ranged from about $27 million to $61 million from September 1987 through February 1989.

Customs officials stated that their inability to reconcile recorded collections to deposits is not new and actually predates the establishment of ACS in 1984. They also stated that the unreconciled balance continues because software limitations in the system prevents an automated reconciliation between collections and deposits. Given these limitations, it is impossible to determine, at this time, whether any money is, in fact, missing.

RECOGNITION OF CONTROL PROBLEMS

The Customs Service has been aware of these internal control problems for quite some time:

-- In February 1987, we reported two major weaknesses in ACS internal controls: (1) individuals had access to ACS functions beyond those necessary to perform their jobs, and (2) software test plans were not adequate to ensure that serious software errors would be detected.

-- In 1987 and in 1988, Treasury reported to the President and the Congress, in its Federal Managers' Financial Integrity Act reports, that Customs' accounting systems and revenue collection process had material internal control weaknesses.

-- A Customs Internal Affairs report in December 1988 cited significant internal control problems. It concluded that Customs does not have enough assurance that all funds received by Customs are deposited and properly credited to Treasury.

-- In October 1988, the acting director of Customs National Finance Center formed a task force to supplement the Internal Affairs study. The task force identified the causes of several internal control weaknesses and developed 30 recommendations to correct them.

As a result of these and other studies, Customs management assessed the situation and concluded in a December 1988 report that the revenue collection process has significant internal control problems and has been in "total disarray" since at least 1985. The report also pointed out that the commitment of resources to solve the problem had not received the priority commensurate with the magnitude of the system's deficiencies. The assessment concluded that without the necessary management attention and adequate resources, the financial accounting systems will not meet required federal standards and will continue to result in material weaknesses.

In summary, Mr. Chairman, our preliminary work has disclosed some long standing serious weaknesses in controls over the collection and deposit of revenues. Because these controls are supposed to account for $17.5 billion per year, top management at Customs must ensure that the root causes of these weaknesses are identified and resources committed to their prompt correction.

Mr. Chairman, this concludes my prepared statement. I will be happy to respond to any questions at this time.

## Chart 1 : Overview of Customs Revenue Collection Reporting Process

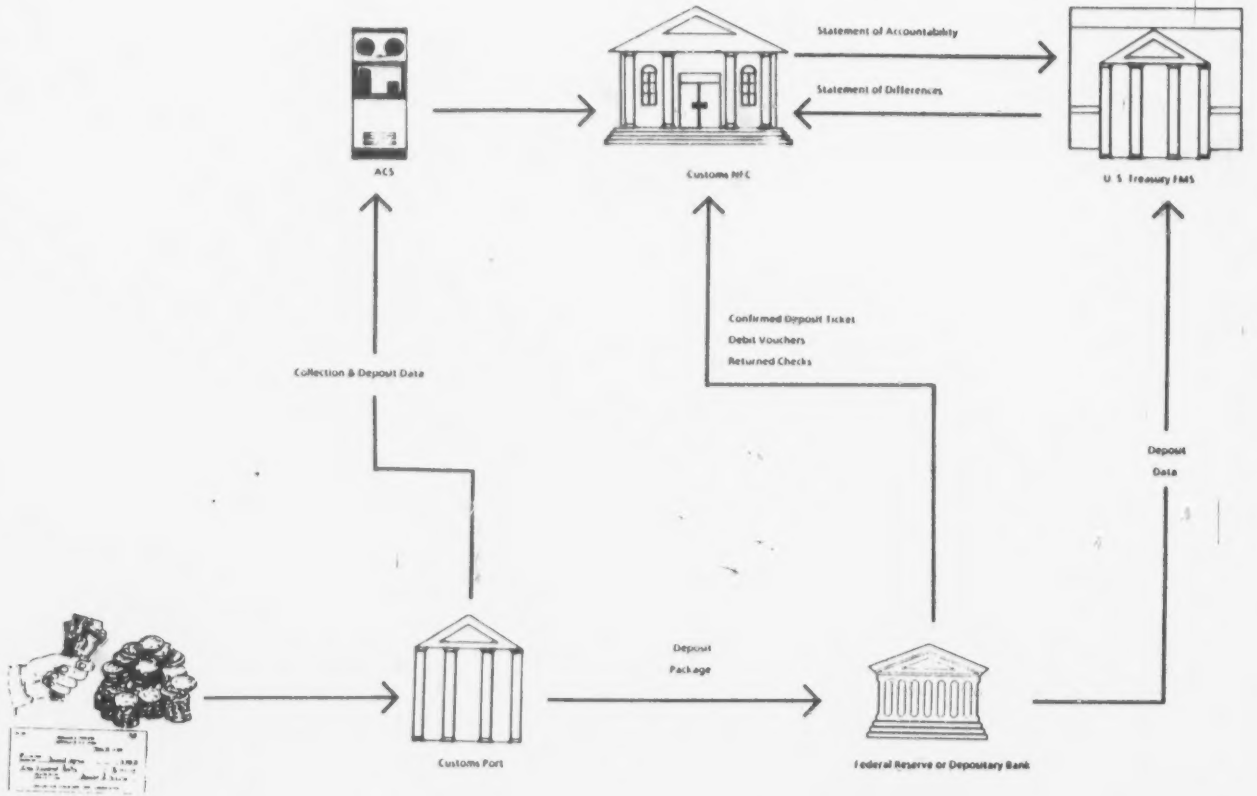
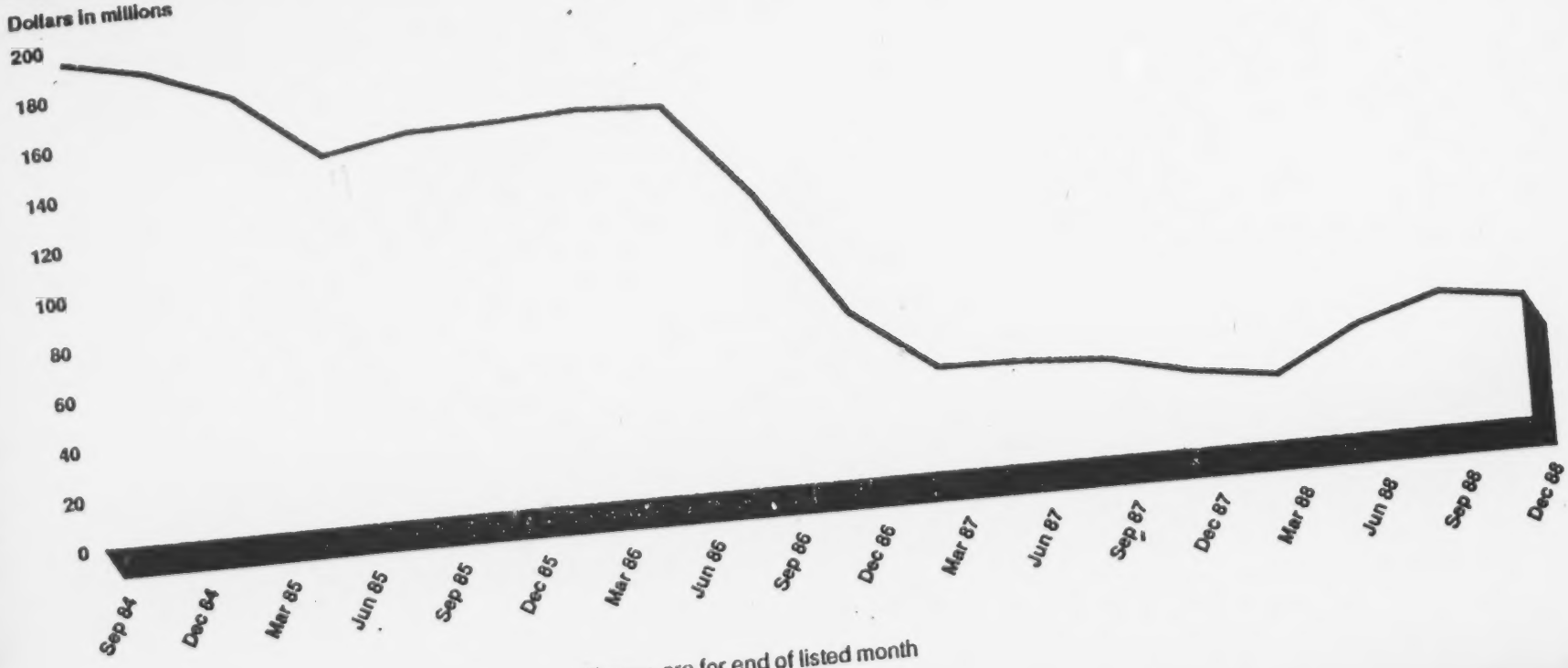
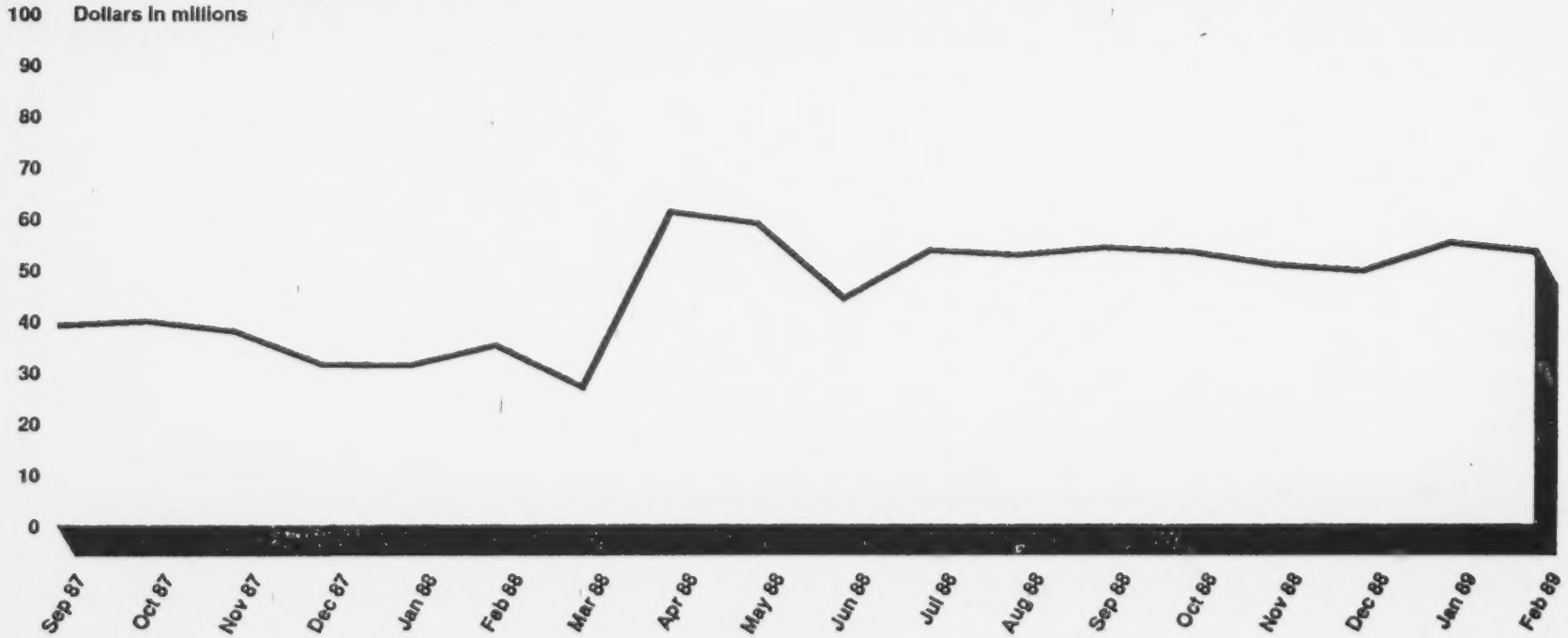


**Chart 2: Quarterly Unreconciled Differences in Customs' Automated Commercial System--Reported Collections vs. Reported Deposits, September 1984 through December 1988**




Figures are for end of listed month

**Chart 3: Monthly Unreconciled Differences in Customs' Automated Commercial System--Reported Collections vs. Reported Deposits, September 1987 through February 1989**




Figures are for end of listed month

Chairman PICKLE. Thank you, Mr. Watts.

Do any of you other gentlemen want to make a statement or are you just there to answer questions?

Mr. WATTS. They are here to help answer questions, sir.

Chairman PICKLE. Thank you, Mr. Watts.

I appreciate your testimony today. It is informative and helpful, but it is very disturbing, I am sure, to all of us.

As I said in my opening statement, I am very concerned about the collection system and that it is so bad. At least it is so deficient that it allows such major thefts to go undetected for such a long period of time.

Let's break down a little more of the facts of the two cases you have referred to in your testimony.

First, the Chicago case. Can you go into more detail about that for us?

Mr. WATTS. Yes, I can. As I said, the total amount stolen was about $3.4 million. Of that almost $3.4 million was in checks and about $25,000 was in cash. This occurred over about a 2-month period.

Typically what happens is that when deposits are pulled together by the cashiers, the cash is put into one deposit bag with the necessary transmittals and deposit tickets. The checks are put into another bag with necessary deposit tickets and transmittals outlining the total amounts in the bag.

The bags are sealed and given to the couriers. The couriers come by and sign for the bags and take them to a commercial bank or the Federal Reserve Bank. In this case, what happened on May 26, for instance, the courier came by and picked up the two bags, one with the cash and one with the checks.

What the records show is cash was not deposited, the checks were. The checks totaled about $2 million.

About 20 or so days after on June 16, a similar event occurred. Two bags were picked up, one with cash, one with checks. The cash never arrived at the bank, the checks did. The checks totaled about $1.7 million.

This process went on, except on the 21st of June, when two bags were picked up, one for checks, one for cash, and neither one of them got to the bank. This is where the $3.4 million in checks disappeared. This went on at sporadic times over the next several weeks until the last theft occurred on August 2.

As I indicated in my testimony, during this period of time Customs was not aware of these missing deposits. They became aware when the courier service became suspicious of one or so of its employees, contacted the police department and the Customs Service.

From then on Customs began to determine that they had lost——

Chairman PICKLE. Let me ask you after the courier service became suspicious, I understand they said they became suspicious of their former employee. He was no longer with the Service at that time, the courier?

Mr. WATTS. I don't know that—the courier was working for the courier company, not for the Customs Service.

Chairman PICKLE. As I understand that, the suspicion was reported to the Chicago——

Mr. WATTS. By the courier service?

Chairman PICKLE. Why did they go to the Chicago police? Did they go to Customs also?

Mr. WATTS. Yes. They contacted the police, and the police contacted Customs to begin the investigation on August 4.

Chairman PICKLE. The courier contacted the Chicago police first.

Mr. WATTS. That is what we have been told by the people in the Chicago Port.

Chairman PICKLE. The people in the Chicago police force?

Mr. WATTS. Chicago Customs Service.

Chairman PICKLE. That they did not know about it but that it was reported to the police department first?

Mr. WATTS. And then the police contacted——

Chairman PICKLE. I understand it was about an employee who then was by that time a former employee. What had happened to that courier—I mean the employee prior to that?

Do you know?

Mr. WATTS. I do not know, sir.

Chairman PICKLE. Do you know, Mr. Alston?

Mr. ALSTON. No, sir, I do not.

Chairman PICKLE. All right.

Go ahead then now.

Mr. WATTS. If you would like, I can go through similar information with the Los Angeles case. In this situation, as I indicated, the theft was about $840,000.

What normally would happen in this situation is that passengers come into the port and go through cashiers to pay various taxes and duties. At the end of the day the cashiers total up the cash, the checks, and the travelers checks received, record them on a transmittal slip and take them to a vault at the Customs Service.

The next day, the embezzler in this case, would take the cash and the checks and the deposit tickets out of the vault and prepare two things. First, she would prepare a document to deposit the cash, which would be picked up by a courier service and taken to the bank.

She would also take the deposit slip for the cash as well as the checks and credit card receipts and prepare a transmittal and send them to another cashier in the Customs Service for eventual deposit in the bank.

Typically, she would get the cash and the checks out of the vault. She would keep the cash and destroy the cash receipt documents that were used to transmit that money into the vault by the previous cashier. At other times she would change the figures on those cash receipts to a lower amount and keep the difference. Through this process she took approximately $343,000 in cash and $497,000 in personal and travelers checks. By destroying the documents—she ended up destroying 318 documents—she took $800,000-plus.

In the second scheme, she altered about 28 documents and took about $38,500.

As I indicated in my testimony, the discovery of this theft came from an individual who had previously paid by check, some time in January, a duty or penalty. Along about May, that individual had still not received that check, clearing through her personal account. Because of that the individual called Customs and asked In-

ternal Affairs what was going on and why. It was through that inquiry by the passenger that Customs became aware of the fraud.

Chairman PICKLE. Those are the factual recitations of two cases, one in Chicago and one in Los Angeles. Do you know about any other cases like these that have since been revealed or been brought to light?

Mr. WATTS. When we were trying to get the background material on all these cases, in particular the Los Angeles case, we discovered that Customs Internal Affairs had conducted various investigations in the past and had identified four frauds that occurred in the Los Angeles area from 1982 through 1987 in addition to the one I just described.

Those four frauds totaled about $150,000. I don't have a lot of details on those individual cases, but I am aware that they did occur.

I understand also that there are a couple of cases up in the New York area, but I don't have any details on those cases either.

What exists beyond those, I don't know. There may be others.

Chairman PICKLE. Our committee has been informed that there are at least four more cases similar to these in the Los Angeles area, and that there are two cases in New York and possible another case in Miami.

Is that a fair appraisal of what might be the situation, that is known at this time?

Mr. WATTS. I have heard those facts as well, sir.

Chairman PICKLE. All right. When these cases were discovered, those additional cases in Los Angeles, I assume they were brought to light by the Customs Internal Affairs report?

Mr. WATTS. They were brought to light to me by the Internal Affairs report.

Chairman PICKLE. They were not previously reported to the national offices; is that right?

Mr. WATTS. According to the Internal Affairs report, they were not being reported to——

Chairman PICKLE. Why weren't they being reported?

Mr. WATTS. That I am not sure. I really don't know, sir, why they didn't do that.

Chairman PICKLE. Well, we will ask Customs that question. Now let me ask you one other.

In your statement you said that the Customs Service has been aware of this situation, the internal control problems for quite some time.

In fact, the Treasury Department even acknowledged that these problems for the past 3 years are severe.

In your opinion, why hasn't Customs taken the necessary steps up to this point to have better controls on the collection and deposit of funds?

Mr. WATTS. Well, my opinion comes primarily from some of the prior audit reports and had some personal experience with a report we had issued.

I boil it down basically to a lack of management commitment to get these problems fixed.

If I can elaborate a little on three points to illustrate.

In February 1987, we issued a report pointing out weaknesses in the way Customs was developing the automated commercial

system; namely, how it was being tested, and the controls over access to the system. We gave a copy of the report in draft to Customs, and their reply was, "Yes, there were some problems, but we think ACS is a resounding success. We are concerned by the fact that GAO bring these problems up, but you don't cite any particular cases of fraud, waste, and abuse."

Interestingly, this comment was being made at the very time the Los Angeles fraud was occurring.

A second point, that illustrates this problem of commitment comes from the Customs Internal Affairs report that looked into the Los Angeles case we just discussed.

It was a conclusion in the report that the circumstances that allowed the Los Angeles fraud to occur can be blamed on the lack of management attention to internal control problems.

They also make the point in their report that Customs management downplays the report because the auditors do not show actual cases for fraud, waste, or abuse.

The last thing I could point to is the conclusion of management itself in the management assessment report issued in December of 1988. Where, management did conclude that there is a serious problem and that in the past a commitment of resources had not been given to the correction of these problems, commensurate with the significance of the issues.

Those things kind of lead me to believe that it is a management problem; there is a need to get more management attention to correct these issues.

Chairman PICKLE. I think you are being kind when you said those kind of lead me to believe. You state in your testimony that the control system was in total disarray, that there is no reconciliation ever.

They might have a rolling plug figure to show some kind of balance, but there is no check back from the time they are collected and the time they are put in the Federal Treasury.

Now the question is management, the Commissioner said we are going to set about to correct this in 1987. It looks to me like very little correction has been done. We should see why it hasn't been done. But at this point it is still in disarray.

Would that be your statement?

Mr. WATTS. It is a serious problem still today, yes, sir.

Chairman PICKLE. All right.

Mr. Schulze.

Mr. SCHULZE. Thank you, Mr. Chairman.

Mr. Watts, I would like you to describe for me a little more definitively what happens to the numbered receipt which the clerk has a copy of.

When an individual pays his Customs duty, he is given a receipt that I understand is numbered. What happens to the other portions of that? Where does it go?

How is it used in the accounting structure?

Mr. WATTS. When this occurs, it is usually a cash register kind of operation. The customer actually gets a cash register receipt. At the end of the day the cash register tape, with the cash, is put on these prenumbered serial forms.

I think it is a three-part form. One of those parts actually goes with the declaration of all the——

Mr. SCHULZE. It is actually transferred by hand from the register receipt to a form, and at that point if an employee didn't want to put it on there, they could just ignore it; is that correct?

Mr. WATTS. The cashier has to check out with their supervisor. They have to balance out their cash register drawer at the end of the day. They have an obligation to fill out those prenumbered receipts. Somebody is watching over them.

Mr. SCHULZE. I have never owned a bar, but a friend of mine who did one time said that bartenders kind of share with the owner of the bar. Every evening when they take the receipts, they throw them up to the ceiling. That which sticks on the ceiling goes to the employer.

The rest goes to the employee. Now, it seems to me we could have this same kind of situation where the employee can make a decision about what goes on in this form. Is that correct?

Mr. WATTS. There is a control through the cash register tape. If they don't ring up the cash register tape at the time when the customer is coming through, there would be a control problem.

But actually the cash register tape is the audit trail to track that amount of money.

Mr. SCHULZE. Then they do not hit the register tape, there is of course a problem. Is there any way to check and see whether people, as they go through, do get a receipt?

Mr. WATTS. I don't know, but there are Customs inspectors there to watch over that process.

Mr. SCHULZE. The employee rings it up on the register and transfers it to some kind of account sheet?

Mr. WATTS. Yes. That account sheet is in prenumbered form. They are serially numbered.

The form accounts for the cash that was collected. That form, that cash register tape, together with the checks that were picked up——

Mr. SCHULZE. Is there a separate place to enter checks and cash on that form?

Mr. WATTS. The one with the cash goes on that cash receipt. The checks go on a transmittal slip. Those together go with the cash and the checks to the vault.

Mr. SCHULZE. If a citizen pays with a check, is that rung up on the cash register as well?

Mr. WATTS. Yes.

Mr. SCHULZE. As the employee goes through, they pick out only those transactions that were paid by cash. How is that indicated on the tape? Is there a special designation?

Mr. WATTS. I haven't looked at one of those closely to see.

Mr. SCHULZE. In other words, there has to be something so that when they transfer it from the register receipt where both cash and checks are running up, there has to be some kind of indication so they know to put that on this form?

Mr. WATTS. On the transmittal sheet the checks will be itemized. The cash receipt is for dollar bills and coinage. That is what is reported on that. Those things together with the cash and the checks go for deposit to the vault.

Chairman PICKLE. I presume the cash register tape goes with that as well?

Mr. WATTS. Yes.

Chairman PICKLE. But that is the only copy at that point?

Mr. WATTS. Of a cash register receipt that goes with that, yes.

Mr. SCHULZE. The copies, the other transmittal forms being made out, are in duplicate or triplicate, or are they just single copies as well?

Mr. WATTS. The cash receipt is in triplicate form.

Mr. SCHULZE. Tell me about the paper distribution.

Mr. WATTS. One of those stays with the statements of declaration. The other goes with the cash, with the register tape and the transmittal slip to the cashier, to the vault, I should say. The third one stays in the book as a control to make sure that all those cash receipts that are accounted for.

That is called a record copy. It stays in the book.

Mr. SCHULZE. Are the deposits then ever reconciled with the total amount in the book?

I would presume at the end of the day, at the end of the month, at the end of the week, at the end of 6 months or a quarter, the figures should agree with the total amount put in the books.

Mr. WATTS. It should agree with the documentation in the vault. That is where the individual who conducted the embezzlement would be checking that.

Unfortunately, she was the only person taking the money out of the vault and checking it. Since nobody was there with her and look over her operations, she had total control over the cash, the checks, and the documentation.

That is where one of the controls broke down that allowed her to do what she did.

Mr. SCHULZE. Mr. Watts, at the end of any kind of a given calendar period, whether it is 1 week or 2 weeks or 1 month, is the total amount deposited ever reconciled with the total amount received?

Mr. WATTS. The way the system is supposed to work, at the end of every day when the information is input into the system, the cash receipts, the checks and everything must balance with the itemized collections.

And if they can't, then the terminal will not allow the terminal operator to input any more information until it balances. At that point, there is a reconciliation.

Mr. SCHULZE. There is not a check beyond that? It balances that day and that is the last that it is looked at?

Mr. WATTS. It balances that day at that terminal. That is right.

The point I made earlier is the problem that when Customs begins to roll up collections and deposits in the system from all the terminals around the country, it doesn't balance. That is why we have the plug figures that we were talking about earlier.

Chairman PICKLE. How many reporting stations do they have over the country? Do you have any idea?

Mr. WATTS. There are about 50, I believe, sir.

Chairman PICKLE. Yes.

Mr. SCHULZE. I never heard of a plug figure before. I was in business for 25 years, and we never used a plug figure. It either balanced or it didn't. What is the origin of a plug figure?

Where does that come from? Is that an acceptable accounting standard or practice?

Mr. WATTS. No, it isn't. It is more a way of my trying to describe to you what was actually happening here.

Mr. SCHULZE. Is that a term which is used?

Mr. WATTS. It is a term that I use, yes, to try to describe the fact that collections are totaled at one figure and deposits at another. There are varances. There is no way to get them into balance except to put an artificial number in there to make them balance.

Some people refer to it as a derived number.

Mr. SCHULZE. Mr. Watts, these two cases you discussed at length were not discovered by Customs. If those same abuses happened today, would they be discovered by Customs?

Mr. WATTS. In the Chicago case, I think they would now.

Customs has recognized the deficiency here. The deficiency essentially was the lack of a confirmed deposit ticket, that is—when the deposit was taken to the bank, the bank would confirm right away, "yes, I got the money," not necessarily counting the money, but, "yes, I received it." That is what you call a confirmed deposit ticket.

In the past, that confirmed deposit ticket was going and still goes to the National Finance Center. It does not go back to the port or the individuals who actually made the deposit.

As a result of the Chicago problem, Customs has put out an interim procedure now requiring all ports to require their banks to not only send the confirmed deposit ticket to the National Finance Center, but also send a confirming copy to the port.

The verification of the amount takes place right after that. That should stop the situation we saw in Chicago.

Mr. SCHULZE. Thank you, Mr. Chairman.

Chairman PICKLE. Mr. Anthony.

Mr. ANTHONY. Would it take care of the Los Angeles situation?

Mr. WATTS. No. The Los Angeles situation was a variety of other things. I think the Internal Affairs people at Customs did a very good job in trying to analyze the major deficiencies there. There are about four major deficiencies.

One I have alluded to earlier was the fact that the individual in this case was the only one who would actually take the money out of the vault, count it, and prepare the deposits. There should be at least two people there because the cash and all the documents to account for that cash were in the vault.

Mr. ANTHONY. Has that situation been corrected?

Mr. WATTS. I don't know. We have not gone back in to take a look at that. I know the Internal Affairs report made recommendations that those kinds of things be fixed.

Mr. ANTHONY. You just made a preliminary report to this subcommittee, so maybe I can request you include this information in your final report. A Custom witness may respond to this point later on.

My basic question goes back to the two charts you put up in terms of the monthly unreconciled differences in Customs which fell from a high of $197 million down to a low of $27 million, and as of January of this year or whatever, the latest available number is—what is the unreconciled——

Mr. WATTS. $55 million now; $54 million, excuse me.

Mr. ANTHONY. Can you state whether or not this figure represents money which really exists and has been stolen, or can you even testify that this money even exists?

Mr. WATTS. Neither. The problem is, as I indicated earlier, it is a plug figure. There is no documentation supporting that. It could mean that some money is in fact missing, but there is really no way of telling today.

I can't say whether money is, in fact, missing.

Mr. ANTHONY. What occurred prior to 1984? Has there ever been a time in history when the Customs collections actually did balance?

Mr. WATTS. The investigation didn't go back that far. I know the problem dates back at least until 1984. I don't know about prior to that. Our investigations do not go back that far. It has been a long-standing problem for at least that number of years, though.

Mr. ANTHONY. I guess I am going to operate on the theory that some of the money is out there, and it is either in Treasury's hands or it is in an embezzler's hands.

Mr. WATTS. In my own view, some of it may be attributable to losses and fraud. But I think it is also attributable to other things.

As we have pointed out, there are internal control weaknesses over the accounting for the collections. That could contribute to part of it. I also believe that there is probably some software design problem in the system itself.

Mr. ANTHONY. Mr. Watts, why are you concerned? It has dropped from $197 million down to $54 million. It sounds to me like Customs has made a lot of progress.

Mr. WATTS. I think they have made progress, through a manual effort of trying to research particular imbalances in the past and correct them. If the imbalances were solely old problems and eventually fixed, you would expect that line to go down and down and down. It has not happened. It has come down.

They cut it down to $27 million. But, now it is beginning to go back up again.

Mr. ANTHONY. Would it be rational for this member of this subcommittee to assume that were management to attack this figure vigorously, get the proper software and put the proper attention in terms of staff hours to this problem that this number would go all the way to zero?

Mr. WATTS. You could get pretty close to it, yes, sir. There is always going to be some error in the system, but nothing of this magnitude.

Mr. ANTHONY. Would it be safe to assume that they were to attack this problem and take their task force recommendations into account, GAO recommendations into account, they could stop the Chicago case, the New York case, the Los Angeles case?

Mr. WATTS. They are all preventable if they put in good controls. It is possible to balance this system. I have no reservations about that.

Mr. ANTHONY. If I understand your testimony and the way the system operates, assuming that there is no—assuming there is fraud—let's make an assumption that there was fraud—under the old set up where Customs did not immediately receive the bank re-

ceipt, they really had to rely upon the system working down the road, when it got into the NF Center of Treasury; is that correct?

Mr. WATTS. Correct.

Mr. ANTHONY. There you had this enormous time lag.

Obviously any person with a bad intent in terms of needing cash could see that this system encourages fraud and embezzlement in that there is nobody really watching them. I can see why these cases exist.

But if I understand it correctly, either manually or through a computer, Treasury actually does compare the data with the actual deposits.

At some place over in Treasury this information is compared?

Mr. WATTS. The data Customs sends over shows their deposits, and what is reported to Treasury by the banks is in fact compared.

Mr. ANTHONY. Is this done manually or by computer?

Mr. WATTS. It is a computer generated report, but they have to manually review it to sort it out.

Mr. ANTHONY. What kind of man hours does that take? Is this the logical point to review this information?

Mr. WATTS. I don't think so. You can't afford to have a control that is——

Mr. ANTHONY. It takes what?

Mr. MCDERMOTT. About 140 hours.

Mr. ANTHONY. That is what I thought I read. It seems to me that this process might be misplaced sequentially and that if it were undertaken closer to when Customs actually deposited the money, you would have a better opportunity to detect the fraud. Is that a correct interpretation?

Mr. WATTS. Yes, you would be able to do that, yes.

Mr. ANTHONY. Well——

Mr. WATTS. Treasury takes the position, however, that that control is not intended for that purpose. They instruct agencies, like Customs, to get confirmed deposit tickets the very next day and not wait for that time cycle to occur.

To the extent the Treasury could provide that information more quickly to Customs, then that would also be a benefit to them.

Mr. ANTHONY. I understand they are doing that now?

Mr. WATTS. Yes.

Mr. ANTHONY. Are they doing that in every port?

Mr. WATTS. The confirmed deposit tickets?

Mr. ANTHONY. Yes.

Mr. WATTS. We have not had a chance to verify. That is essentially a new instruction. We were visiting one port the other day, and they are now complying with that instruction.

Mr. ANTHONY. I guess what disturbs me is the lack of uniformity from port to port. You have 300 collection ports so you could possibly end up with 300 additional types of procedures. I think this is what is bothering a lot of us on this subcommittee. You have got to have one standard or nobody can go back and make an accurate assessment of what is going on.

I will close with saying thank you for your testimony. But I want to say to Customs, I think the most devastating thing about GAO's testimony is that internal reports from Customs themselves state that the collection process is in total disarray and has been since

back in 1985, and here we are in April 1989, only now really taking a good hard look at what is going on.

This is a pretty strong indictment from GAO, and I would hope that Customs would be prepared to give it a good solid response as to why they have not done more, and haven't been more vigorous in terms of management, and oversight.

I would like to know if it is an attitude problem or has it been a difference in management styles?

Mr. Watts, when you lay this fact out, it is a terrible indictment, and I must say, if I were working in Customs, I think I would want to get that monkey off my back and do something about it.

Chairman PICKLE. Thank you.

The Chair recognizes Mr. Shaw.

Mr. SHAW. Mr. Chairman, Mr. Watts, when we were reviewing some of the background for this hearing last week I was somewhat shocked over the lack of controls. Mr. Anthony started talking about the lack of uniformity. Isn't there some type of a requirement in the law that the Commissioner shall set for the certain procedures that are to be followed and the various offices are to follow? Is that true, or is that incorrect?

Mr. WATTS. Yes.

Mr. SHAW. Despite that, you are finding that everyone sort of uses some type of innovative way of accounting for or verifying that these things have been done and are, in effect, jerry rigging their own systems so that you are not finding any major type of uniformity from office to office?

Mr. WATTS. One of the things we find is lack of uniform application of the controls that are there. I think that goes to training of the people, making sure they really understand how the system works. There are flaws in the system, the Chicago case is a good illustration. That was an absence of control. But for some of these others, there are controls but they are not being applied.

One of the things that we pointed out in our 1987 report was a need for better control over who has access to the system, and not only who has access to it, but if you have access to it, you should be limited to do only certain things. And we pointed this out to Customs and they put in a procedure to take care of it.

The recent Customs Internal Affairs report, however, points out in the five districts it went to, these procedures were not being followed. So some people have more access to the system than they should have. They are allowed to do things with the system they should not. It is an example where we bring things to their attention and they put out a procedure, but there is not good follow-through to make sure people are in fact following those procedures.

Mr. SHAW. Are you finding a great deal of turnover in employees, or are these people trained into procedures?

Mr. WATTS. We haven't gone into the causes of that. I only bring up training because there is an indication, from what I can see, that people don't seem to really understand how the system should work. These control weaknesses raise a flag to me, questioning whether people are properly trained, do they really understand the system. The scope of our work so far has not looked into the adequacies of those training programs and how well people are trained.

Mr. SHAW. Will it?

Mr. WATTS. Will our effort?

Mr. SHAW. Will your effort evaluate the training and incompetency of the personnel?

Mr. WATTS. We had not planned to do that. However, we could. I will be making a recommendation to Customs that that is one of the things they ought to do right away. They ought to take a look and make an evaluation during this task force approach to see whether training programs are effective. Are they adequate, and are the people who are using the system getting proper training in how the system should be used?

Mr. SHAW. Let's, for a minute, talk about the plugged figure that you referred to. I assume the plugged figure always comes about because of a shortfall in cash and checks in comparison with the amount that is shown on the documentation. Is that correct?

Mr. WATTS. Not necessarily. What happens here is that whenever information is entered into the automated system it is hitting one file, if you will, saying this is a collection and there is so much here in terms of being collected.

It also essentially hits another file and says we deposited that amount. These two should always be equal. Unfortunately, near the end of the month they try to pull the information out of the system, but those figures are not equal. So, is it actually a loss of cash? That is a possibility. Is it because there are some internal problems with the logic of the system? That is also a possibility. But those are reasons why this kind of thing could be occurring.

One of the major problems that Customs people have encountered is obtaining an automated reconciliation process that will allow a reconciliation to take place. There is not an automated reconciliation capability within the system today. If Customs had that capability, it would be an additional control that would help Customs balance and make sure it doesn't have to use plugged figures.

Mr. SHAW. I see. So the $54 million that we are talking about, or whatever it happens to be at the particular time, since under some circumstances too much cash, sometimes there is less, but the plug is the accumulation of these errors?

Mr. WATTS. Yes.

Mr. SHAW. In putting this together, so we are not saying $54 million is some way falling through the cracks every month?

Mr. WATTS. We don't know. That is the problem.

Mr. SHAW. Well, okay.

Mr. WATTS. It could be. Part of it could be falling through the cracks. I am not trying to be evasive with you. The problem is that there is no documentation to support that figure.

Mr. SHAW. Is this each and every month we are talking about?

Mr. WATTS. Yes.

Mr. SHAW. We are not talking about an accumulated plug here? You are saying a new plug every month?

Mr. WATTS. It accumulates from month to month. Customs people are accountable for what they collect and so they have to roll over from month to month that portion they cannot account for. That is why you see it moving up and down from month to month.

Mr. SHAW. So what happened in September 1987 is reflected in February 1989 to the extent it hasn't been accounted for by that time?

Mr. WATTS. Yes. Just because Customs can't account for something this month, it is not off the hook; it still must account for it the next month.

Mr. SHAW. So if you were to have a straight line, you could assume that the accounting procedures are pretty good right now, but they are still reflecting what happened back before that first plug was put in?

Mr. WATTS. Right. If these were just historical problems that occurred way back when, and Customs was progressively getting them worked off, you would expect that line to continue to come down and eventually get to zero. It comes down but from March 1988 to the present day it has essentially doubled again, gone from about $27 million up to around the $54 million range.

Mr. SHAW. I would say March and April are pretty bad months. Some really bad stuff went on right in there.

Mr. WATTS. Right.

Mr. SHAW. Let's go back to one area that Mr. Schulze was questioning you about. That is, when you talked about the one instance where all of the cash register receipts to go with the documentation created from the cash register receipts were all in one place. Do I understand you correctly?

Mr. WATTS. At the LA airport the cashiers would put the money and receipts into a vault and then it was up to the lead cashier to take all the different deposits from the individual cashiers and consolidate them and transmit them either to the bank, if they were cash, or to another cashier, if they were checks, for eventual deposit in the bank.

Mr. SHAW. The documentation, though, was done in triplicate, wasn't it?

Mr. WATTS. Yes.

Mr. SHAW. It was just sitting there with the carbons still in there?

Mr. WATTS. The problem was she had full control over the issuance of those documents. She got them back and that was another breakdown in the segregation of duties. She shouldn't have been the one to issue them and get them back. But, the fact she was able to issue them and get them back, she could control how she would manipulate the funds and actually destroy documents without them being detected by somebody else.

Mr. SHAW. On your flow document, that documentation is to go from the Customs port to the Federal Reserve or Depository. One is to go to the ACS, is that right?

Mr. WATTS. Actually, that is documentation that comes from the cashiers into the port. The cashiers in the port will take that information and consolidate it and make out a bank deposit, if you will. So that cash receipt document actually stays at the Customs Service. It does not go on to the banks.

Mr. SHAW. Which one is made in triplicate and at what point?

Mr. WATTS. That is done at the cashier level earlier where the money is actually collected from the passengers.

Mr. SHAW. So that documentation goes according to the arrows you have shown there?

Mr. WATTS. The cash receipt document stays at the port but the information from that document actually goes into ACS.

Mr. SHAW. Is this the one done in triplicate?

Mr. WATTS. Yes.

Mr. SHAW. So it is sent out in different directions.

Mr. WATTS. The information from it goes into ACS, yes.

Mr. SHAW. What I am trying to pinpoint here is at which point in your overview does somebody look at the bank records and see if that balances out with the forms that were made in triplicate at the Customs port or at the cashier level?

Mr. ALSTON. I just want to point out that because the supervisor in this case altered the documents prior to input into ACS, what was reflected in ACS would agree with the money collected in the altered document situation, she would alter one of the documents, the one used for the entry into the ACS. The other two went in storage, one in the vault and one in her own personal books. In missing documents scheme when she takes all of the documents, that information doesn't get into ACS at all.

Mr. SHAW. Where did the breakdown in procedures occur other than the fact two people weren't in the room?

Mr. WATTS. I think they occurred two or three places. She had total control, as Dave just described, over those documents. Somebody else should have been issuing those books with those three part forms in them to the cashiers and she should not have been.

She also was, as I said earlier, the only one who would be there at the vault to open it up and count all the cash.

The other problem here, too, is that those are prenumbered documents and once they go into the system, they should go into a logical, numerical sequence. If they don't, if some document gets in there out of sequence, it should kick out on the error register. The Internal Affairs people found that the register was not being researched properly to detect missing documents.

I think the fourth control problem that existed here, which I may have alluded to earlier, is the fact that she was not, according to the rules and regulations, making out deposits on a daily basis. What the Internal Affairs report shows is that sometimes it would be anywhere from 2 to 120 or so days before money in the vault was, in fact, transmitted and deposited. The average was about 69 days. So it allowed her to play the float and manipulate the documents.

So, all four control weaknesses were there which allowed her to do pretty much what she wanted to do.

Mr. SHAW. One last question. Are the accounting procedures as set up by Customs adequate to minimize the possibility of embezzlement if they are indeed practiced and checked upon?

Mr. WATTS. We haven't done a thorough review to take a look at that. So I really would not be able to say that their total system of internal controls is adequate today. Their reports to the President, their reports to Congress, show some material weaknesses in those systems. So, by their own admission, their controls are not adequate yet, to make sure that those things won't continue.

Mr. SHAW. Are you going to be making recommendations along that line?

Mr. WATTS. If the committee wants us to explore this further, we will take a look at it.

Mr. SHAW. Mr. Chairman, I certainly would like to see us explore it further.

Thank you, Mr. Chairman.

Chairman PICKLE. Thank you, Mr. Shaw.

Mr. McGrath.

Mr. MCGRATH. Thank you, Mr. Chairman.

I guess the focus of these hearings as we meet here this afternoon, is two problems. One is the apparent inability to account for duties, probably underscored by embezzlement cases in different ports.

And the other is poor administration of a contract between Customs and the Northrop subsidiary to store and sell property seized by Customs.

I wonder if you could enlighten us on that particular aspect?

Mr. WATTS. The scope of our work that I have been testifying on today did not get into that. Other portions of GAO have, and I am aware that we have reported on various problems with respect to the forfeiture fund and things of that nature. But I am not sufficiently knowledgeable or have a background to deal with that kind of an issue.

Mr. MCGRATH. I guess the next witness will be testifying to that. I think the most disturbing thing to me, other than the loss of the revenue one way or another, through inadvertence or out and out theft, is the fact that the internal procedures of the department did not bring this to light themselves. I wonder if you could enlighten us? I know you have answered the question a number of times, but whether or not this is a problem with the system itself, the ACS system, or a lack of procedures outside of the system that could account for the discrepancies that we find and you find?

Mr. WATTS. I would say from what I can see, it is both. I hope I don't sound evasive. My suspicion is there is some internal design problems within the ACS in the collection area that may be contributing to those problems. On the other hand, there are controls in the system which I think the Los Angeles case shows, but they are not used.

That brings me back to my point earlier about whether the people are properly trained in the use of the system and the use of the controls in carrying out their duties. So I think it is a matter of both, sir.

Mr. MCGRATH. And the design of the ACS system, I understand that it was left solely in the hands of data processors with little or no input by the accountants. Is that basically correct?

Mr. WATTS. I don't know that to be the case. That could be true, but what I have been told is the revenue collection portion of the system today really was not a redesigned system. What they essentially took was a system they had many years ago and simply modified it to work with the current system. That is another reason why I get concerned about the design of that system. If you try to force fit, if you will, a system that was designed not necessarily to fit with another, a lot of times you will have a problem.

Mr. MCGRATH. One final question. I thought I heard you say you didn't have any information about the two cases at JFK. Are you presently investigating those cases?

Mr. WATTS. No sir, we are not.

Mr. MCGRATH. Mr. Chairman, I think we ought to extend the purview of this investigation to at least the cases at JFK airport. Thank you.

Chairman PICKLE. We reported it. There are four to six other cases and possibly one case in Miami on forfeiture. We are going to ask that those be looked into and we are specifically asking for your cooperation. I have to assume, Mr. Watts, that if these kinds of embezzlement are taking place, as reported here today, that that apparently is the same situation that could be taking place throughout the United States. Do you disagree with that?

Mr. WATTS. No, I don't. I think the opportunity is there.

Chairman PICKLE. Well, we are going to have an additional hearing on this subject and we may call witnesses back later under oath, because we need to ascertain as a matter of fact some of this information that is being related to us. Does that complete your questions, Mr. McGrath?

Mr. Dorgan.

Mr. DORGAN. Thank you, Mr. Chairman.

Mr. Watts, thank you very much for your testimony. I was a little bit surprised when I read your testimony. Accounting 101 discusses generally internal controls and how necessary they are and how when you begin to set up a system you make certain that you have appropriate internal controls. Yet, you testify here today that the fraud that you uncovered in Chicago and Los Angeles resulted from a lack of internal controls. I think that is the case when I analyze what you have said.

You say, however, that Customs and Treasury has been aware of those problems since at least 1987. If they have been aware of fundamental problems in internal controls since 1987, in your judgment, why did they not take action and who didn't take action? Who knew about them and didn't take action?

Mr. WATTS. Well, I think it comes pretty much from the top. I mean, some of these problems have been raised through reports from Customs to Treasury, to the President, to the Congress. These problems have been known, so it comes all the way from the top.

My point is that it is a matter of where priorities are being placed. Apparently priorities are not being placed in this area. They are being placed somewhere else.

Mr. DORGAN. But you are saying that work by your agency and others alerted Customs to the fact that they had an internal control problem in 1987. Then, we discover fraud occurring after that period and, in fact, the agency itself didn't discover the fraud. Somebody else discovered it for them.

Nothing was done in the intervening period. That suggests to me there is a certain lack of attention to basic elements of good business sense. Everybody involved in the accounting understands that you need good internal controls. If you said to them early on, you don't have good internal controls here, and they didn't do anything about it, I guess what Congress wants to know is who didn't do anything about it and why?

I suppose we will ask the why question later, but you are saying the head of the Treasury Department, the head of Customs——

Mr. WATTS. It has to come from the top. It has to come from the top if you are going to get the commitment of resources to get things fixed.

Mr. DORGAN. Is it surprising to you they would have notification of these kinds of problems and not take action or are these particular internal control problems so difficult that they are almost impossible to solve?

Mr. WATTS. I don't think their internal control problems are too difficult to solve at all. We are talking about fundamental controls that need to be there. A fundamental control principle is reconciliation. But, when you don't have that capability in your system that is poor control.

Mr. DORGAN. When they talk about accounting 101, as I read your report, what you are saying is that somebody makes out a deposit slip and they give the money to somebody to go deposit it and the money that is actually deposited results in a slip at the institution of deposit, but then nobody reconciled the two numbers. So somebody in between ran off with the money and nobody knew it. Is that as simple as it was?

Mr. WATTS. That is as simple as it was in the Chicago case.

Mr. DORGAN. That is bizarre because that is so elementary in the ways you account for your money that I frankly don't understand how an agency would allow that to happen. I ran an agency once that ran hundreds of millions of dollars through it and we spent enormous amounts of time on the question of internal control. How do you provide for adequate internal control? Because if you don't have that at the start you are just not going to succeed in the accounting for anything. Internal control is critical.

Again, I think you have provided this committee with some very important information. It is good work. The question is, what will happen to this. I think you are saying this information has been provided before. At least the agencies have known of this sort of recommendation before, have known of the deficits that exited before and nothing happened as a result of it.

I would hope then the next step for the committee is to ask the question why and who. Who ignored it.

Mr. Watts, thank you very much, and thank you, Mr. McDermott and Mr. Alston.

Chairman PICKLE. Thank you, Mr. Dorgan.

Now, we have several other witnesses, and we want to hear from them. We hope, Mr. Watts, you can stay, because we might want you to comment later on some of the testimony or statements that are made.

We thank all of you very much for your testimony.

The Chair now asks Linda Gibbs to please take the witness stand.

Previously, Ms. Gibbs had contacted this committee concerning these problems and there have been a series of contacts. I think it is important to hear her testimony so the next witness representing Treasury, would have a chance to comment on anything she might say.

So, Ms. Gibbs, if you will proceed.

**STATEMENT OF LINDA GIBBS, MANAGEMENT ADVISER, OFFICE OF THE COMPTROLLER, U.S. CUSTOMS SERVICE, AND FORMER DIRECTOR, OFFICE OF FINANCIAL MANAGEMENT AND PROGRAM ANALYSIS, U.S. CUSTOMS SERVICE**

Ms. GIBBS. Thank you, Mr. Chairman. Distinguished members of the subcommittee. I am pleased to have been invited by you to be here, and share my knowledge of the fund control and financial integrity/accountability within the Customs Service. I understand that today, you are specifically interested in focusing upon issues related to revenue and the forfeiture fund. I would like to run through my statement briefly, but request to have a copy of my written statement included in the record.

Chairman PICKLE. It will be introduced.

Ms. GIBBS. I am Linda Gibbs, currently a management adviser on the Comptroller's staff of the U.S. Customs Service. I was the Director for the Office of Financial Management and Program Analysis for Customs and was essentially the Chief Financial Officer responsible for accounting and budgeting matters servicewide. I had a staff of approximately 300 individuals, located in the Washington, DC, area and in an Indianapolis consolidated accounting center that Customs calls the national finance center. My undergraduate major was accounting and I have a masters degree in business. I have 14 years career civil service and private industry experience in audit and financial management, most of which has been spent in trouble shooting areas and fixing problem organizations.

I had been hired by the Customs Service in October 1987 to fix severe financial management problems. My being hired was prompted by an investigation by Customs Service's Internal Affairs organization which uncovered these problems. I interviewed with Treasury management, who expressed a very specific concern on the need for integrity and ethics, because of their concerns for problems within Customs Service, their reputation and some of the known past practices.

After serving in the capacity as Chief Financial Officer——

Chairman PICKLE. Let me interrupt you just a moment. You say during your interview there was a need for personal integrity and ethics was stressed by Treasury because of past Customs reputation and known practices. What do you mean? Will you explain that?

Ms. GIBBS. Yes, I was told by the Deputy Assistant Secretary for Management that there was a great deal of concern, that within Customs, there had been various information that was covered up. Treasury wanted to be sure I did not know the Commissioner or the Commissioner's assistant, or other members of the senior staff within Customs Service, and that I would not participate in any kind of a cover up if I ever became aware of one.

Chairman PICKLE. These are concerns Treasury had made you aware of?

Ms. GIBBS. That is correct.

After serving in that position for over a year, I found that not only did I lack management support for fixing existing financial problems, but in some cases, the Commissioner and other senior management, including the Comptroller, were actually directing

actions that were violations of law in financial and procurement areas.

Further, that systems, including those that GAO discussed, had been designed by nonfinancial people even though finance was responsible for the operation of those systems. New systems development efforts are still being planned, notably the general ledgers system called CAMIS, which is being directed by the Office of Data Systems and/or other organizations without sufficient financing representation, although individuals would later be responsible for managing those systems. That, in and of itself, will further compound the financial problems and the number of deficiencies will continue to expand, creating serious problems in the financial area.

I attempted to prevent some of the violations that were occurring on the financial end, which I will later describe, and to improve financial integrity within Customs, but I was unable to convince Customs Service officials of the need to comply with Government, financial and procurement laws and regulations. It was particularly concerned, since Customs is a law enforcement agency. I was told by the Comptroller, for example, when I informed him that some procurements were being possessed even though it was already after the fiscal year end and there was an attempt to charge these orders to fiscal year 1988, the financial staff had gone to obtain a legal opinion which stated that these items were not appropriate, and the orders were being sent back to logistics.

The Comptroller started screaming at me and told me that if I would stop going to legal counsel to check on Customs practices, we wouldn't have so many problems, and that Customs was different from other organizations. We didn't have to follow regulations the way other organizations did.

Chairman PICKLE. Did he say why?

Ms. GIBBS. Not specifically on that occasion. It was just treated as a known fact. Customs doesn't have to follow the same rules as the rest of the Government. The fact that those couple of specific orders that I was addressing at that time were being processed after fiscal year end was not relevent. The Comptroller's attitude was that I should have let them go through and just turned my head to them. Shortly thereafter, the Comptroller did send out a memorandum to his staff stating that they could only coordinate with legal counsel if they expressly got his permission.

I did try and solicit support from Treasury, without a great deal of success, although prior to fiscal year end they did send memorandums and held some meetings. However, in frustration, and after several violations of law at fiscal year end, I went to the Treasury inspector general and became a whistle blower.

I was subsequently removed from my position and from the Senior Executive Service by the Commissioner and the Comptroller, the very individuals that I turned in to the inspector general.

I would like to focus my attention on the revenue system, the first issue I was asked about. I am not surprised by GAO's findings. In February 1988, shortly after I came on board, and concurrent with the change in management in the Indianapolis Finance Center, I sent a team of financial managers and management analysts to review the center's procedures, internal controls, and the efficiency of the operation. There were numerous problems found

in every area, not just revenue. We conducted studies and started taking corrective actions in the areas that were known to have deficiencies.

At that time, the revenue system, I was told, was in fairly good shape, better than most of the others. I had not seen the GAO report. However, by late summer of 1988 we were getting into the revenue area, the monthly financial analyses were indicating serious fund control and spending problems, and I had not been able to obtain much interest from Customs management relative to addressing these problems.

I felt that the revenue area had been seriously overrated. The team I had sent to Indianapolis were getting feedback from some of the revenue staff that they had been told by management in the revenue area not to cooperate with the review that they were doing. We were also getting feedback that there was calls going directly from some of those same managers to the Comptroller's staff complaining about inquiries being made into their work.

Shortly thereafter the Comptroller stopped the review and removed key members from the Indianapolis accounting center. In fact, the key analyst on the project was reassigned to the Office of Personnel. This act basically stopped the review and a report was not issued. However, there were several issues reported orally that had arisen as problems:

One was the absence of the accountability for deposits. Basically, there is an ACS design flaw that did not allow that when deposits came back from the bank, this information could be input into the system so that bank records could be matched with the data from the field.

There were also serious unexplained fluctuations in past due moneys that were owed to Customs. The information that the review team was getting back ranged from $70 million to about $250 million within days, and there were no explanations for these fluctuations which made them very suspect.

The timing when this issue arose, was right around when the Chicago incident occurred. My own management efforts having been halted, I was very pleased with GAO coming in. I told the GAO team that I was pleased with their investigation and that hopefully, it would provide information, so that we could improve the integrity of the revenue area.

I would like to turn now to the other area of interest—the forfeiture fund. There were several things going on concurrent with the attempt to review the revenue area. One was that my staff and I were basically fighting past practices which was in violation of appropriations law. The practice was using accrued receivables to cover obligations. In essence, they were reporting income through the use of accrued receivables and assuming that there would be income in the future and spending against it. Basically, appropriations laws states that you have to have cash in hand.

I would like to provide a little bit of background into the forfeiture fund. Customs law enforcement results in the acquisition of large amounts of seized property such as airplanes, vessels, automobiles, high tech items, general merchandise. With the great amount of emphasis on law enforcement over the last several years there has been significant increase in workloads and in some ports

and districts, and the high volume of seizures became absolutely logistically impossible to deal with.

Based on recommendations from a 1983 GAO report, Congress passed the Comprehensive Crime Control Act of 1984. In August of 1985, the Customs Service awarded a contract to Northrop Worldwide Services, Inc., to handle the receipt, custody, management and disposal of properties seized by and forfeited to the Customs Service.

Customs also created a Seized Property Division within the Office of Logistics Management to provide a focal point to control that program.

Getting back to the issue, the Northrop contract was originally represented to be a cost savings and in fact would pay for itself from proceeds. However, it did not work out in this manner. In fiscal year 1988, it was anticipated that $12 million would pay for the Northrop contract for the year. By the end of the year that amount grew to approximately $17 million. There was no particular justification that was forwarded to the financial staff for this change.

Of these costs there was approximately $12.6 million that could neither be recovered by proceeds from the sale of seized goods or was available from the forfeiture fund itself. The only legal option Customs therefore had, was to cover those costs through their salaries and expense budget. I know that Customs management had been aware of the fact that their past practice of creating an accrued receivable and then obligating against these receivables it was not acceptable.

Customs Chief Counsel, on August 24, 1987, wrote a legal opinion to the Assistant Commissioner of Customs Internal Affairs and told him that this practice was not legal. There was also a memorandum written to the Commissioner on June 1, 1987 and it told him about the penalties for going deficient. In essence, the responsible individuals could serve up to 2 years imprisonment and a personal fine of up to $5,000 if, in fact, they overspent their agency's funds.

Nevertheless, this practice occurred at the end of fiscal 1987. I received this counsel opinion after months of trying to obtain an opinion through my boss, the Comptroller of Customs Service. It was August 1988, 1 year after that opinion was written. At that time, I was pressured to go along with Customs past practice.

In fact, in one meeting in the Comptroller's office I was asked by the Assistant Commissioner for Enforcement why I was being so stubborn, why couldn't I just follow past practice and simply cover the obligations again this year for $12.6 million that I previously mentioned. If I was ever questioned or asked about it, I could always say I was just following past practice and I was doing it for consistency.

I told him at that time that if in fact he had a past practice of shooting people and he walked up to that individual over there and shot him, would that make it any less legal because that was an established past practice of his, than it would be if he walked up and shot that man and it was the first individual he had ever shot.

After my refusal to violate the law, the Commissioner of Customs sent his congressional relations staff to contact our House and Senate Committees on Appropriations asking for their permission

to spend into a deficit and cover this $12.6 million. Both reportedly said that they could not support that action. It was not legal. One responded that they would write the Commissioner every day in jail if he did follow through with that practice.

We had numerous meetings and meetings with Treasury as well as Customs. There was a pretense within Customs that spending would stay within the law. However, on the last day of the fiscal year Custom's management attempted to overobligate funds to cover that loss of the $12.6 million. They directed that procurement orders for $27 million be written, although these managers knew that I had already told them that morning, as well as numerous times during the previous several weeks, that we had approximately $15 million available to us to spend.

Again, when it came to my attention that they had actually gone ahead and booked those obligations—it was on the first day of the fiscal year, on October 3. There was a great deal of pressure for me to comply. I had meetings with the Commissioner on several occasions, and in fact, was in the end ordered to sign the financial statements and certify their accuracy.

I consistently refused to perjure myself, and provide certification to those statements, knowing that even though after numerous corrections had been made, there were still entries on those statements that represented inappropriate procurements, and should not have been charged to fiscal year 1988.

I tried to convince Customs management to stop their actions prior to violating the law, and cancel those orders immediately, before they were illegally placed with vendors.

I also went to the comptroller and asked him to stop the actions even though in the meetings, the Commissioner had obviously directed him to follow through with those procurements. I had also brought my objections up at those meetings.

I went and I reported those actions to Treasury management. I also went to the inspector general, as I previously mentioned, and became a whistle blower.

My actions did force Customs to cancel most of the procurements and in the end, Customs had to lapse $21 million, because of these canceled procurements. These problems, in my opinion, are only representative of Customs fiscal integrity problems and the financial mismanagement.

I thank you for your invitation to testify before you and I would be happy to entertain any questions that I can answer.

[The statement of Ms. Gibbs follows:]

Statement of Linda Gibbs, Former Director, Office of Financial Management and Program Analysis, U.S. Customs Service

Mr. Chairman and distinguished members of the Subcommittee, I am pleased to have been invited by you to be here, and share my knowledge of fund-control and financial integrity/accountability within the Customs Service. I understand that today, you are specifically interested in focusing upon issues related to revenue and the forfeiture fund.

To introduce myself, I am Linda Gibbs, currently a Management Advisor on the Comptroller's Staff at the U.S. Customs Service, and formerly was the Director for the Office of Financial Management and Program Analysis. I was responsible for managing Customs accounting and budgeting matters service-wide, with a staff of approximately 300 individuals located in the Washington, D.C. Headquarters, and in a centralized accounting center in Indianapolis. My undergraduate major was accounting and I have a masters degree in business. I have 14 years career civil service and private industry experience in audit and financial management, having spent most of my career trouble-shooting problem organizations.

I had been hired by Customs in October 1987, to fix serious existing financial management problems which had been brought to light through a Customs Internal Affairs Investigation completed in late summer 1987. During my interviews for this position, the need for personal integrity and ethics was stressed by Treasury officials; because of the past Customs reputation and known practices. After serving in this capacity

of Chief Financial Officer of Customs for over 1 year, I found that not only did I lack Customs management support for correction of past and existing problems, but the Commissioner and other senior managers were directing actions that would result in serious financial and procurement violations. Further, financial systems had been and were planned for development without input of necessary technical experts, which would only further compound the financial problems within the organization. I attempted to prevent violations and improve the financial integrity from within Customs, but was unable to convince Customs officials of the need to comply with Government financial and procurement laws and regulations. For example, I was told by the Customs Comptroller that the Service does not operate like other Government Agencies, and if I'd only stop soliciting legal opinions on Customs practices, we wouldn't have so many problems. Shortly thereafter, the Comptroller directed his staff to only coordinate with or obtain advice from Counsel, with his express approval. Due to the lack of support received from Customs, I solicited support from Treasury officials. Finally, frustrated by the situation and believing in financial integrity within the Government, I became a whistleblower, reporting the facts on legal and regulatory violations to the Treasury's Inspector General. I was subsequently removed from my position and from the Senior Executive Service by the Commissioner of Customs.

To focus on your interest in the Revenue System, I am not surprised by GAO's findings. In February 1988, concurrent with a change in management at the Indianapolis Accounting Center, I sent a team of financial managers and management analysts to review the Center's operations looking for ways of improving the internal controls and efficiency of financial procedures and practices. Numerous problems were found in every area reviewed. Studies and corrective actions were taken first in the areas known to have deficiencies. The Revenue area had been reported to me at that time as being sound, and I had not at that time seen GAO's 1987 audit report. However, in the late summer of 1988, as the review team progressed into the Revenue area, and with monthly financial analysis indicating serious fund control and spending problems it became increasingly obvious that the condition in the Revenue area had been seriously overrated. The review team was told by staff in the Revenue Branch that they were not to cooperate with the review, and the Comptroller's staff was being directly contacted by Revenue managers to complain about the team's inquiries. In the end, the Comptroller stopped completion of the study and issuance of a report by removing key review team members from Indianapolis, and reassigning the key analyst on this project to the Office of Personnel. Although the study was not finalized and no report was issued, several problems were uncovered. These include the absence of accountability for deposits due to the lack of a reconciliation between figures reported by the field to those reported by the banks used as depositories; and

there were significant unexplained fluctuations in past due monies owed to Customs, ranging from $70 to $250 million within days, making reliability of these numbers suspect. The timing of my obtaining this information coincided with the Chicago's incident discussed by GAO.

Since my own efforts had been halted by management, I was pleased when shortly thereafter, GAO's review was initiated, in hopes that the effort to bring greater financial integrity to the Revenue area in Customs may be fulfilled.

Let me turn now to another issue, which occurred during the same period. My financial staff and I were fighting to stop violations of appropriation law by changing the previous practice of using accrued receivables to cover obligations related to seized property and the forfeiture fund, your other focus area in today's hearing. Essentially, this practice entailed adjusting the accounting records for receivables, to make it appear as though Customs had more income than was actually received, this apparent income could then be used for additional expenditures that Customs could not have otherwise made. Appropriations law requires cash in-hand by year-end to make expenditures.

To provide some background into the forfeiture fund, Customs law enforcement results in the acquisition of large amounts of seized property, including conveyances (such as: airplanes, vessels and substantial numbers of automobiles), high technology items, and general merchandise. With greater emphasis over recent years, most Customs districts and ports of entry experienced increased administrative workloads associated with the acquisition and disposition of seized property. In addition, several "high volume" districts/ports became inundated with the logistical duties which accompany such administrative responsibilities.

Based on recommendations from the July 1983, GAO report entitled "Better Care and Disposal of Seized Cars, Boats, and Planes Should Save Money and Benefit Law Enforcement", Congress passed the Comprehensive Crime Control Act of 1984 (PL 98-473). Customs took action to obtain a contract for performance of related custodial functions in order to provide for efficient and effective program management, while at the same time freeing Customs personnel to more effectively perform their primary duties of revenue collection and law enforcement. In August 1985, USCS awarded a contract to Northrop Worldwide Aircraft Services, Inc., for the receipt, custody, management and disposal of property seized by, and forfeited to the Customs Service. Also, Customs created the Seized Property Division within their Office of Logistics Management, to provide a focal point for overall program management.

Getting back to the issue, the Northrop Contract was originally represented as a cost savings, and a contract that would pay for itself from proceeds related to the sale of this same seized property. However, the contract costs increased significantly and could not be covered from proceeds alone. In fiscal year 1988 the contract increased from a planned $12 million for the year to $17 million by year-end, with no justification provided to the financial staff for this change. Of these costs, $12.6 million could not be covered from proceeds or monies available for expenditure in the forfeiture fund. The only legal option therefore, was to use the salaries and expenses budget to cover these costs.

I know that Customs management had been aware of the fact that past practice which I previously described, was not in compliance with law. A legal opinion had been written by Customs Chief Counsel on August 24, 1987, addressed to the Assistant Commissioner of Internal Affairs, at the time his office was conducting the investigation on financial mismanagement, just prior to my being hired at Customs. Further, Customs Chief Counsel had written a memorandum dated June 1, 1987, addressed to the Commissioner, explaining the related penalty of up to 2 years imprisonment and not more than $5,000 fine for willful violation of this law. Never-the-less, after I received the legal opinions in August of 1988, 1 year after it was written, I was asked and pressured by Customs senior management on multiple occasions to continue past practice. In fact, on one occasion the Assistant Commissioner for Enforcement, in a

meeting with the Comptroller and others, asked why I was being so stubborn. Couldn't I simply cover these obligations again this year, and next year Customs would change their procedures. After all, if questioned, I could always use as my defense that this was an established practice, and I did it for consistency. I responded to him by stating that if he had an established practice of shooting people, was it any less illegal when he shot the next individual, than it would have been if he'd not ever shot anyone before?

After my refusal to violate the law, the Commissioner had Customs Congressional Relations Staff contact the House and Senate Committees on Appropriations, asking for permission to spend into a deficit in fiscal 1988, to recover the costs related to the Northrop Contract. Both reportedly refused to support deficit spending, and one responded that they would write the Commissioner every day in jail if he proceeded on this basis.

A pretense was made to support the legal requirement and avoid deficit spending, however, on the last day of the fiscal year an attempt was made to over-obligate funds to compensate for what Customs believed was the unfair loss of $12.6 million of their spending authority, due to the forfeiture fund contract costs. Again, there was significant pressure for me to participate in this cover-up, including being ordered to sign Customs year-end financial statements certifying to their accuracy.

I consistently refused to purger myself by providing certification to Customs financial status and to aid in covering up the unethical acts. I tried to convince Customs management to stop their actions prior to violating the law. As required in my capacity as the Chief Financial Officer, I reported to Treasury management and the Inspector General. My actions forced Customs to cancel most of the procurements related to this issue reversing what at year-end appeared to be a deficit, and resulting in a lapse of Customs fiscal year 1988 salary and expense funds totaling $21 million.

These problems are only representative of Customs fiscal integrity problems and the financial mismanagement. I thank you for your invitation to testify before the Subcommittee today, and would be happy to entertain any questions you might have.

Chairman PICKLE. Ms. Gibbs, I thank you for your testimony. You have given us a very candid and straightforward statement. I personally am alarmed at these serious charges We will look into each one of these charges in the statement you have made because we must get to the bottom of it.

In the interest of time let me ask you two or three questions. Who pressured you to participate in what you referred to as a coverup?

Ms. GIBBS. I was specifically pressured by the comptroller.

Chairman PICKLE. Who is the comptroller?

Ms. GIBBS. William Riley. He was my boss.

Chairman PICKLE. William Riley. Here in the Washington office?

Ms. GIBBS. Yes.

Chairman PICKLE. Who else?

Ms. GIBBS. The Commissioner himself just because the Commissioner——

Chairman PICKLE. Mr. Von Raab?

Ms. GIBBS. Yes.

Chairman PICKLE. Did you talk to him personally?

Ms. GIBBS. Yes.

Chairman PICKLE. He pressured you into signing these documents also?

Ms. GIBBS. Not into signing the documents, but I was called into the meetings where the procurements were being decided on after year end, and it was assumed that I would participate and just look the other way. During those meetings I told Customs management, including the Commissioner, that it was an inappropriate and illegal to make the procurements using fiscal 1988 funds. They followed through with those procurements and acted as though that really didn't matter.

I made it very obvious that I would report their actions if they proceeded. The only way—by going ahead with those procurements—that their acts could remain uncovered was if I had not turned the issue over to Treasury and the inspector general.

Chairman PICKLE. Did the Assistant Commissioner for Commercial Operations, Ms. Lynn Gordon, every talk to you about this?

Ms. GIBBS. Lynn Gordon was in fact at that time the Executive Assistant of the Commissioner and was attending the same meetings with the Commissioner and made it quite clear that it was expected that I comply with managements directors.

Chairman PICKLE. Now, have you reported all of this to the Treasury inspector general's office?

Ms. GIBBS. Yes I have.

Chairman PICKLE. What was their response?

Ms. GIBBS. They followed through with an audit which was completely and are working on an investigation that is currently underway. The audit report itself, although it does not cover many of the substantive areas, specifically states that the Commissioner aided in the coverup because he signed documents in fiscal year 1989 dated in fiscal 1988, to cover up the procurements that are question.

Chairman PICKLE. Did the inspector general make any referral of this matter to anyone else?

Ms. GIBBS. Yes. He referred that matter to the assistant U.S. attorney, Brian Murtough.

Chairman PICKLE. To the U.S. attorney?

Ms. GIBBS. Yes, for possible criminal prosecution.

Chairman PICKLE. Is that pending now?

Ms. GIBBS. That is pending now.

Chairman PICKLE. And to whom did you refer this to in the inspector general's office, and in Treasury?

Ms. GIBBS. I specifically called the inspector general. I talked to the Director for the Office of Finance in Treasury. I talked to the Comptroller in Treasury and I made several calls to the Assistant Secretary for Management in Treasury, although only once got a response from her.

Chairman PICKLE. Now, you testified you had sent a review team to Indianapolis to look at the Customs collection systems and someone told the Customs staff—I presume that would be in Indianapolis—to be uncooperative with the review team, is that correct?

Ms. GIBBS. That is the feedback I got. I was told the revenue branch managers in fact were the ones that told their staff not to cooperate with the team.

Chairman PICKLE. Who directed the Customs staff not to be cooperative?

Ms. GIBBS. The revenue branch managers, the individuals that the staff members reported to.

Chairman PICKLE. Who were they?

Ms. GIBBS. That would be Bob Hamilton, who is the chief of the revenue branch, and I was told he is the one that contacted the management staff of the comptroller.

Chairman PICKLE. Now, you are not the director now. What is your position now?

Ms. GIBBS. I am a management advisor without assigned responsibilities or duties.

Chairman PICKLE. Now, you have made a lot of statements that are very serious. My question to you is can you furnish this committee documentation of these allegations?

Ms. GIBBS. I would be most happy to.

Chairman PICKLE. We have written you for that information and we would hope that you would respond to us.

Ms. GIBBS. I will respond within the next several days.

[The information follows:]

UNITED STATES GOVERNMENT
*Memorandum*

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE: JUN 1 1987

AD-87-0256/0262

TO : Commissioner of Customs

FROM : Chief Counsel

SUBJECT: Legal Requirements of Antideficiency Act

This is in response to your request for legal advice regarding the legal requirements of certain provisions of the so-called Antideficiency Act, 31 U.S.C. 1341 et seq. We understand that you have recently been informed that it is possible that the Customs Service may have expended or obligated funds in excess of funds available in our appropriation in certain past fiscal years.

If excess expenditures occurred in any particular year, Customs would be in violation of our Appropriation Act, and would be in contempt of Congress's mandate. As such, Customs (or Treasury) officials may be called before Congress to explain the overpayments. The Secretary of the Treasury is ultimately responsible for actions of the Customs Service, but the Commissioner and other Customs officers delegated authority for operating the Customs Service may be held responsible for Customs actions.

In addition, under 31 U.S.C. 1341(a)(1), "An officer or employee of the United States Government...may not...make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation; or...involve [the United States Government] in a contract or obligation for the payment of money before an appropriation is made...." Pursuant to 31 U.S.C. 1350, knowing and willful violations of this provision by any officer or employee of the United States Government subjects such person to criminal penalties of either a fine of not more that $5,000 or imprisonment of not more than 2 years, or both. In addition, persons violating the Act are subject to appropriate administrative discipline including, where circumstances warrant, suspension or removal from office. 31 U.S.C. 1349(a). Furthermore, in case of a violation of the Act, the head of the agency in which the violation occurred shall immediately report to the

President, through the Office of Management and Budget, and to Congress all relevant facts and a statement of actions taken. 31 U.S.C. 1351. Thus, various officials in Customs and the Treasury Department would be potentially subject to various legal sanctions in case either the Appropriations Act or Antideficiency Act is violated.

We recommend that you direct the Acting Comptroller to review the records and determine whether there is a problem, and to report to you. If any perceived discrepancies cannot be reconciled to your satisfaction, an appropriate investigative office should be notified of the possible violations, so that it may conduct an investigation into the matter. It should determine whether violations occurred because of faulty procedures, negligence by employees, or even whether any employee misconduct was involved. The result of the investigation should be a report which discusses what occurred, why it occurred, and a recommended course of action as to Customs procedures and employee discipline.

Based on this report, you should report to the Secretary of the Treasury regarding this matter and Customs actions in response to its discovery, so that the Secretary may make the necessary reports to the President and Congress. 31 U.S.C. 1351.

I remain available to assist you as questions arise regarding this matter.

Michael Schmitz

Michael T. Schmitz

UNITED STATES GOVERNMENT

**Memorandum**

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

Mike
Can we discuss
this please.
Wayne

DATE: JUN 11 1987

FILE: FIS-2-06 CC:EL
AD-87-0256

TO : Chief Counsel

FROM : John E. Lehman

SUBJECT: Whether Customs May Expend Money Billed for Reimbursable Services Prior to Receipt of Payment

I have been asked to render an opinion on the question of whether Customs may expend money billed for reimbursable services prior to receipt of payment, even if payment would occur in a succeeding fiscal year. We understand that this question has arisen in the context of reimbursement for Customs overtime services in past years pursuant to 19 U.S.C. 267 and 1451, under the statutes applicable prior to enactment of Customs user fee law, 19 U.S.C. 58c, which established a user fee fund to reimburse Customs for its overtime costs from user fee receipts.

Pursuant 19 U.S.C. 1524, "Receipts for any reimbursable charges or expenses which have been paid out of any appropriation for collecting the revenue from customs shall be deposited as a refund to such appropriation...." Thus, receipts for reimbursable services such as Customs overtime are refunded to the appropriation from which the payment was made and are part of that appropriation. For most of the fiscal year, there should be sufficient money in Customs appropriation to cover the salaries and expenses which are paid for the performance of overtime services, and periodically these amounts should be reimbursed to Customs appropriation by the parties in interest, to be expended for necessary expenses of the Customs Service. However, near the end of the fiscal year, Customs performs reimbursable services for which the appropriation is not reimbursed until the succeeding fiscal year, and for which there may otherwise not be sufficient funds in the appropriation to pay the salaries and expenses. The question arises, are these receipts part of the present fiscal year appropriation against which Customs may expend funds before receipt of the funds in the appropriation?

In my opinion, by interpreting 19 U.S.C. 1524 together with the statute establishing procedures for Customs overtime, 19 U.S.C. 1451, it is arguable that Customs has statutory authority to perform services and expend funds in anticipation of receipt of the payment for these services, for the reasons discussed below.

Pursuant to 19 U.S.C. 1451, parties in interest are required to deposit sufficient money to pay, or give a bond conditioned to pay in the future, the compensation and expenses of Customs officers who perform the delineated overtime or Sunday inspectional services. Thus, it is clearly provided that such services can be performed before payment by the parties in interest. Once performed, Customs is obligated to pay for the services rendered by its employees, and payment comes from Customs appropriation. Because Congress has appropriated the receipts into Customs appropriation and the bonding requirement virtually assures payment of the amount, it would appear that once the service has been performed (or requested and not performed), Customs appropriation can be considered to include the receipts, and payments made against such receipts, even if they would be deposited into the appropriation in a subsequent fiscal year. This is the only reasonable construction of 19 U.S.C. 1451, which provides a detailed statutory framework for the performance of Customs overtime services. There is no indication that Congress intended that services cease or be curtailed in the last weeks or month of a fiscal year, or be limited to those parties which pay for the services at the time they are performed; in fact, 19 U.S.C. 1451 provides that Customs is required to perform the necessary services "upon request," when it is determined "to be necessary to facilitate" inspection of persons or merchandise at the border and when a bond or deposit is proffered at airports or seaports. At the end of the fiscal year, if there were a sudden surge in demand at the same time as Customs annual appropriation is nearly depleted, Customs could not continue to pay its employees for the services rendered if it did not consider the bonded receipts as part of its appropriation for that year.

This construction of 19 U.S.C. 1451 is in harmony with the intent of Congress when it passes Customs annual appropriation. In addition to the money appropriated, Congress intends that Customs will have access to a certain amount of reimbursable funds, authorized by 19 U.S.C. 1451 and other laws. An interpretation holding that reimbursements received in a succeeding fiscal year for services rendered in the prior fiscal year cannot be used to fund such services would thwart the intent of Congress, requiring Customs to allocate funds designated for other purposes for the payment of overtime costs, thereby reducing the overall funding available for the performance of Customs mission.

It should be stated that the General Accounting Office has "never recognized any authority of a Federal agency to incur obligations against receipts anticipated to be received beyond the end of the current year in the absence of specific authority of law therefor." 51 Comp. Gen. 598, 605 (1972). However, it is arguable that 19 U.S.C. 1451 is just the specific statutory provision necessary to authorize Customs practice of incurring obligations against anticipated receipts in the performance of overtime services, either within a fiscal year or from one fiscal year to the next.

It has also been asked whether Customs may incur obligations against anticipated receipts of anticipated sales of general order merchandise (19 U.S.C. 1491) or seized merchandise (19 U.S.C. 1609, 1611, 1612). In my opinion, because such receipts are too speculative and there is no statutory provision authorizing such procedure, Customs may not incur obligations against anticipated receipts of anticipated sales. In a case involving the State Department, GAO has held that it was an Antideficiency Act violation to charge the costs of the installation of new telephone equipment partially against the anticipated proceeds of sale of the telephone equipment to be replaced. 35 Comp. Gen. 356 (1955). It appears that this principle is applicable to Customs sales of property, and that expenses should be charged against Customs appropriation, not anticipated receipts.

DATE: AUG 24 1987

FILE: BUD-1 JEL
AD-87-0085

TO : Assistant Commissioner
(Internal Affairs)

FROM : Chief Counsel

SUBJECT: Incurring Obligations Against Receivables

This is in response to your memorandum dated July 29, 1987, describing a practice of obligating funds against anticipated proceeds from auctions, and asking whether the practice might be a violation of the Antideficiency Act, 31 U.S.C. 1341 et seq.

In answer to your three questions, it is our opinion that Customs should in general obligate funds only against funds actually in our appropriation, as discussed in the attached memorandum dated June 11, 1987, from John Lehman of this office, unless there is specific statutory authority to the contrary. Thus, it would appear that Customs should not obligate funds against expected future reimbursements from sales. Secondly, whether or not anticipated sales generate the expected receipts, Customs would be subject to Antideficiency Act violations for obligating funds exceeding the amount available in our appropriation. 31 U.S.C. 1341(a)(1) (see our attached memorandum dated June 1, 1987). Finally, in response to your third question, Customs would be required to carry out the procedures described in our memorandum dated June 1, 1987, for investigating and reporting Antideficiency Act violations, whether or not the receipts are realized.

This memorandum addresses only the general question of obligation of expenditures against anticipated receipts of sales without deciding whether there are particular factual circumstances which would justify an exception to these principles. We believe that it is premature to address the particular circumstances of Customs procedures before the completion of your investigation. In addition, we suggest that Customs might consider whether it would be beneficial to request the General Accounting Office to review our accounting system to determine whether it minimizes the likelihood of an antideficiency with regard to the incurring of obligations against receivables.

If you have further questions, please call Mr. John Lehman of this office, [illegible] 566-6245.

(S)
Michael T. Schmitz

Attachments

**DEPARTMENT OF THE TREASURY**
**U.S. CUSTOMS SERVICE**
*Office of Logistics Management*

Karen,
Linda,

Attached for your signatures is a CF 148 requesting $2,684,942 from the Forfeiture Fund to pay for increased costs of the servicewide seized property contract. This increase in contractor costs is primarily attributable to the Customs Zero Tolerance Program.

If you have questions, need clarification, or if you anticipate a substantial delay in the approval of this request, please contact me at 566-5435.

Upon your approval, please return the attached CF 148 to the Seized Property Division, room 1417.

Rex
6-21-88

PAGE ____ OF ____ PAGES

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

# REQUEST FOR PROPERTY OR SERVICES

5221, P&PM

Prepare in quadruplicate. Original and two copies to procurement office. Retain last copy for your records.

| FOR USE BY PROCUREMENT STAFF | |
|---|---|
| DATE ASSIGNED | P. R. NO. ASSIGNED |
| ASSIGNED TO | |
| ORDER NO. | AWARD AMOUNT |
| COMPLETION DATE | CONTRACT SPECIALIST TEL. NO. |
| CONTRACT SPECIALIST (Signature) | |

**APPROVALS**

1. ORGANIZATION APPROVAL (Signature) [signature] 6/27/88
Karen A. Robb, Acting Director, OLM

4. FUNDING APPROVAL (AUTHORIZED Signature Only)
Linda Gibbs, Director, OFMPA

7. ACCOUNTING PROCESS CODE (APC)
030809 (Forfeiture Fund)

9. LOCAL PROPERTY OFFICER APPROVAL (Signature)

**INITIATOR**

2. ORIGINATOR'S REQUEST NO.

3. REQUEST DATE
June 21, 1988

5. REQUESTOR'S NAME
Gary George

6. TEL. NO.
566-5435

8. ORGANIZATION NAME AND ROOM NO.
Seized Property Division, room 1417

10. ADDRESS
1301 Constitution Ave. N.W., Wash. D.C. 20229

| 11. ITEM NO. | 12. QUANTITY | 13. UNIT OF MEASURE | 14. OBJECT CLASS CODE | 15. PROPERTY CODE | 16. PROPERTY LOCATION CODE | 17. DESCRIPTION | 18. ESTIMATED COST A. UNIT | 18. ESTIMATED COST B. TOTAL |
|---|---|---|---|---|---|---|---|---|
| | | | 25.53 | | | During FY 1988. Customs demand for servicewide seized property contract (Tc 85-37) services has been much greater than originally forecast. As of May 1, 1983, 71 percent more seizures have been accepted by Northrop than were included in the workload for the FY 1988 option year contract pricing. During this same time period, the total number of seizures in inventory has increased from 5,500 as of October 1, 1987, to 8,364 as of May 1, 1988. This represents a 52 percent increase in inventory. The average number of months in storage has also increased for all property categories. As described in detail in the attached document, the increase in seizure activity and demand for increased services has resulted in the need for additional FY 1988 contract funding. The total projected increase in contract costs for FY 1988 is $2,684,942. This modification represents a 20 percent increase in costs over the original FY 1988 contract amount. | | $2,684,942 |

19. DELIVER TO (If other than blocks 5, 8, and 10 above. Note that the accountable property location code must always be listed in column 16 above.)

20. DATE REQUIRED: ASAP

21. TOTAL ESTIMATED COST: $2,684,942

22. REMARKS

23. ATTACHMENTS CHECKLIST

☐ BASIC JUSTIFICATION (Required if not given in block 22 above.) ☐ PHYSICAL AND/OR PERFORMANCE SPEC. ☐ ACCEPTANCE TESTS ☐ STATEMENT OF WORK ☐ SOLE SOURCE JUSTIFICATION ☐ RECOMMENDED SOURCES ☐ STATEMENT OF URGENCY ☐ OTHER (Describe)

Customs Form 148 (083181)

SPD/CPD

UNITED STATES GOVERNMENT
**Memorandum**

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE: JUL 13 1988

FILE: BUD-1-CM:F:B:E SMP

TO : Acting Director
Office of Logistics Management

FROM : Comptroller

SUBJECT: Request for Forfeiture Fund Resources

Your request to increase the contract funding for the servicewide seized property contract (Tc 85-37) has been approved for funding under the Forfeiture Fund. The value of this approval is $723,640. Attached is a copy of the original Request for Property or Services (CF 148) which was signed and submitted to the Headquarters Operational Procurement Branch, Office of Logistics Management.

If there are any questions regarding this matter, please have your staff contact Sonia Pratt of the Budget Division on 566-5187.

William F. Riley

Attachment

PAGE ____ OF ____ PAGES

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

# REQUEST FOR PROPERTY OR SERVICES

5221. P&PM

Prepare in quadruplicate. Original and two copies to procurement office. Retain last copy for your records.

| FOR USE BY PROCUREMENT STAFF | |
|---|---|
| DATE ASSIGNED | P. R. NO. ASSIGNED |
| ASSIGNED TO | |
| ORDER NO. | AWARD AMOUNT |
| COMPLETION DATE | CONTRACT SPECIALIST TEL. NO. |
| CONTRACT SPECIALIST (Signature) | |

| APPROVALS | INITIATOR |
|---|---|
| 1. ORGANIZATION APPROVAL (Signature) Karen A. Robb, Acting Director, OLM | 2. ORIGINATOR'S REQUEST NO. 3. REQUEST DATE June 21, 1988 |
| 4. FUNDING APPROVAL (AUTHORIZED Signature Only) Linda Gibbs, Director, Office | 5. REQUESTOR'S NAME Gary George 6. TEL. NO. 566-5435 |
| 7. ACCOUNTING PROCESS CODE (APC) 030809 (Forfeiture Fund) | 8. ORGANIZATION NAME AND ROOM NO. Seized Property Division, room 1417 |
| 9. LOCAL PROPERTY OFFICER APPROVAL (Signature) | 10. ADDRESS 1301 Constitution Ave. N.W., Wash. D.C. 20229 |

| 11. ITEM NO. | 12. QUANTITY | 13. UNIT OF MEASURE | 14. OBJECT CLASS CODE | 15. PROPERTY CODE | 16. PROPERTY LOCATION CODE | 17. DESCRIPTION | 18. ESTIMATED COST A. UNIT | 18. ESTIMATED COST B. TOTAL |
|---|---|---|---|---|---|---|---|---|
| | | | 25.53 | | | During FY 1988, Customs demand for servicewide seized property contract (Tc 85-37) services has been much greater than originally forecast. As of May 1, 1988, 71 percent more seizures have been accepted by Northrop than were included in the workload for the FY 1988 option year contract pricing. During this same time period, the total number of seizures in inventory has increased from 5,500 as of October 1, 1987, to 8,364 as of May 1, 1988. This represents a 52 percent increase in inventory. The average number of months in storage has also increased for all property categories. As described in detail in the attached document, the increase in seizure activity and demand for increased services has resulted in the need for additional FY 1988 contract funding. The total projected increase in contract costs for FY 1988 is ~~$2,684,942~~ $723,640. This modification represents a 20 percent increase in costs over the original FY 1988 contract amount. | | ~~$2,684,942~~ 723,640 |

19. DELIVER TO (If other than blocks 5, 8, and 10 above. Note that the accountable property location code must always be listed in column 16 above.)

20. DATE REQUIRED: ASAP

21. TOTAL ESTIMATED COST: ~~$2,684,942~~ 723,640

22. REMARKS: APPROVED FOR $723,640 FROM FORFEITURE FUND $mp.

23. ATTACHMENTS CHECKLIST

☐ BASIC JUSTIFICATION (Required if not given in block 22 above.) ☐ PHYSICAL AND/OR PERFORMANCE SPEC. ☐ ACCEPTANCE TESTS ☐ STATEMENT OF WORK ☐ SOLE SOURCE JUSTIFICATION ☐ RECOMMENDED SOURCES ☐ STATEMENT OF URGENCY ☐ OTHER (Describe)

Customs Form 148 (083181)

UNITED STATES GOVERNMENT
**Memorandum**

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE: JUL 13 1988

FILE: FAC-9-01-CM:L:S GG

TO : Director
Office of Financial Management and Program Analysis

FROM : Acting Director
Office of Logistics Management

SUBJECT: Obligation of Reimbursable Funds for Modification to the Servicewide Seized Property Contract

Customs Zero Tolerance Program resulted in a substantial unanticipated increase in our servicewide seized property contractor's workload. Attached is Northrop's letter to our Contracting Officer dated June 15, 1988, that provides their proposal to modify the subject contract to accommodate this increased workload. Also attached is a copy of an approved CF 148 to fund this modification. This CF 148 requested that the proposed modification funding in the amount of $2,684,943 be approved; however, due to limited Forfeiture Fund resources, only $723,640 (all available FY 1988 Forfeiture Fund resources remaining) was approved.

Due to the unique nature of this revenue producing program, this contract only costs the Government approximately 10% of the total contract cost (in FY 1987 the total cost of this contract was $12,427,820 with revenue income of $11,353,663; thus, in FY 1987, the net cost of this contract to the Government was $1,075,157). However, due to the mandatory line-item accounting requirement (i.e. case-by-case accounting requirement for each individual seizure case number), the cost of this contract to the Customs Forfeiture Fund is approximately 20% to 30% of the total contract cost. Please note that these percentages are only estimates, the Office of Logistics Management does not have exact information regarding the actual cost of subject contract to the Forfeiture Fund.

Accordingly, although we only have approval for $723,640 from the Forfeiture Fund at this time, due to the generation of anticipated revenues we feel confident that this is an adequate amount of Forfeiture Fund resources to fund the $2,684,943 modification. However, in order to approve the needed modification, the Contracting Officer must have an approved CF 148 for the total amount of the proposed contract modification. As such, please establish a financial account to fund this, and future, reimbursable requirements for the Seized Property Program.

In addition to the servicewide seized property contract, this office is responsible for the servicewide contract for the sale of G.O. merchandise. Although Customs Forfeiture Fund resources are not used for the G.O. sale contract, and we don't have an active requirement at this time, we anticipate the need for a similar type of reimbursable funding mechanism to accommodate future G.O. sale contract modifications. Please establish a financial account to fund future reimbursable requirements for the servicewide G.O. Merchandise Sale Program.

Attached, for your approval, is a CF 148 for $1,961,303 to fund the remainder of the $2,684,943 modification. Please contact the Seized Property Division at 566-5435 if you have any questions regarding this request.

Larry Goerlinger

Attachments

UNITED STATES GOVERNMENT
***Memorandum***

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE:

FILE: FAC-9-01-CM:L:S

TO : Commissioner

THROUGH: Deputy Commissioner

FROM : Comptroller

SUBJECT: Reprioritization of FY 1988 Forfeiture Fund Resources

Customs Zero Tolerance Program resulted in a substantial unanticipated increase in our servicewide seized property contractor's workload. Attached is Northop's proposal to accommodate this increased workload and other background information regarding this request.

Request your approval to reprioritize allocation of the FY 1988 Forfeiture Fund Resources to ensure that all FY 1988 seized property costs are provided for. The exact amount is not available at this time.

Please note that due to the unique nature of this revenue producing program, this contract only costs the Government approximately 10% of the total contract cost. However, due to the mandatory line-item accounting requirement, the cost of this contract to the Customs Forfeiture Fund is 20% to 30% of the total contract cost. To further compound the expenditure of Forfeiture Fund resources, we recently identified Customs accounting deficiencies in the method in which the Northrop contract was previously funded. Thus, in order to avoid the possibility of an anti-deficient situation, it may be necessary to use significantly more Forfeiture Fund resources to fund Northrop than anticipated.

Your approval of this request will prevent the mandatory termination and shut-down of the Northrop contract prior to the end of FY 1988. Please indicate your approval/disapproval below.

William F. Riley
Comptroller

Attachment

Approved:_____ Disapproved:_____

*DEPARTMENT OF THE TREASURY*
*U.S. CUSTOMS SERVICE*
*Office of Logistics Management*

7-26-88

TO: LOREY

FROM: REX

SUBJECT: Update on Our Quest for Additional Funding to Support Zero Tolerance Contractor Workload

Further meetings on this with Balaban, Linda Gibbs, and discussions with Ed Mathews and Lynn Winningham have led to the following:

1. Budget cannot/will not fund end of year increases against receivables as the contract is normally funded. This means real money must be used.

2. The only place for real money is the Forfeiture Fund. To get this money for the contract the spending plan must be amended & approved by the Commissioner.

3. The amendment to the spending plan will deduct monies currently allocated for Fund "add ons" such as refurbishment for enforcement purposes, radios, payment of liens etc. Somebody (READ OE) will be losing money they think they have and may be unhappy. However, Zero Tolerance is the Commissioner's program and seized property costs are first priority for Fund expenditures.

Rex

*DEPARTMENT OF THE TREASURY*
*U.S. CUSTOMS SERVICE*
*Office of Logistics Management*

7-28-88

TO : Acting Director, OLM

FROM : Director, SPD

SUBJECT: Zero Tolerance Northrop Funding Increase Request

While in Indy yesterday Larry Walker of OE PMS talked with me about our request for funding for the Northrop contract - $1.9 million increase for FY 88 due to Zero Tolerance. He knew all about Budget plans to use up the Forfeiture Fund for this instead of funding against receivables as had been done in the past. He jokingly referred to SPD as taking all of OE's Fund money. I indicated to him that this was a Budget decision, that I thought funding against receivables was just fine, but I'm not a budget whiz so what do I know.

Anyway, a dispute may be building which has OE claiming Budget should be able to fund the Northrop increases without using their Fund resources. This was apparently done under Wayne Hamilton's direction, and OE may argue that Wayne was right and this is how it should be done.

Rex

UNITED STATES GOVERNMENT
*Memorandum*

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE: AUG 4 1988

FILE: FAC-13-06-CM:L:S: RLA

TO: Director, Office of Financial Management and Program Analysis

FROM: Acting Director, Office of Logistics Management

SUBJECT: Northrop Shutdown Due to Lack of Funding

By September 1, 1988, Northrop, our servicewide seized property contractor, will have used all funds currently obligated for FY 88 contract costs. Absent the approval of additional funding, we will be forced to instruct Northrop to suspend operations effective that date.

The Seized Property Division has been working with personnel from the Budget Division to resolve this matter since June 21, 1988. Please see my memorandum to you dated July 13, 1988, regarding this subject. (copy attached)

It has been recognized since the inception of the Northrop contract that seized property expenses are directly related to Customs seizure activity, and as such are uncontrollable. Although workload predictions for FY 87 and 88 were accurate enough to obviate the need for Fourth Quarter funding enhancements, the impact of Zero Tolerance on FY 88 workload has led to such a requirement.

The unacceptable consequences of a Northrop shutdown are obvious. We urge you to expedite the resolution of this matter to insure uninterrupted seized property service to the Customs law enforcement program. If you have any questions regarding this matter, please do not hesitate to call on me.

Loretta J. Goerlinger

Attachment

UNITED STATES GOVERNMENT
**Memorandum**

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE: AUG 30 1988

FILE: FAC-8-CM:L:C:O:N PD

TO : Commissioner

FROM : Comptroller

SUBJECT: Fourth Quarter Expenditure Approval

Pursuant to the Treasury Acquisition/Procurement Regulation (TAPR), Part 1007.173, which requires review and approval of all fourth quarter procurement actions in excess of $25,000 prior to award, the attached requisition is forwarded for your review.

The attached "Request for Property or Services" (CF 148) provides $1,290,658 in funding under the seized property contract. This is due to an unpredictable and substantial increase in workload, primarily resulting from the Customs Service Zero Tolerance Program.

Please indicate your decision by signing in the appropriate space below.

William F. Riley

Attachment

WFR. September 2, 1988
Approval

Disapproval

UNITED STATES GOVERNMENT
*Memorandum*

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE: [illegible]

FILE: FIS-4-CM:F:A

TO : Commissioner of Customs
THROUGH: Deputy Commissioner

FROM : Comptroller

SUBJECT: Funding of Costs Relating to Seized and Forfeited Property

At this time, I must bring to your attention a serious budgetary problem related to the Northrop Contract for the storage, maintenance and sale of seized property. As you are aware, the contract calls for Customs to transfer to Northrop sufficient funds to store and maintain the seized property and then be repaid from the sale of these items. Funds required to pay for the Northrop contract come from the sale of forfeited property, the S&E appropriation, or the Forfeiture Fund.

For FY 1988, we initially assumed reimbursement for $13.0 million and $2.1 million from the Forfeiture Fund, for a total $15.1 million. Currently, we are projecting that actual obligations under the Northrop Contract will rise to $17.0 million, primarily to account for the sharp jump in seizures under the Zero Tolerance Program.

Unfortunately, because of the large increase of seizures which could not be sold in FY 1988, actual reimbursements for this fiscal year are considerably below the level anticipated. Although total reimbursements for this year are projected at $9.0 million, the actual amount that can be applied to FY 1988 obligations is only $2.3 million; therefore, we must make-up a shortfall of $12.6 million (see attachment 1), which must be covered from the S&E appropriation or additional monies from the forfeiture fund.

We are proposing, as a partial offset to this shortfall, to shift funds from available reserves and to re-direct selected obligations from the Forfeiture Fund. Ultimately, we will cover the remainder from surpluses accruing in the regular S&E appropriation. Specifically, we recommend that $4.595 million be reprogrammed from the reserves (see attachment 2 for list of items to be reprogrammed). The Table of Equipment funds ($1 million) is probably of most concern to the operational offices, but I must recommend this course of action to insure that we do not incur a budgetary deficiency.

With regard to the Forfeiture Fund, there are also some significant decisions. We are proposing that the funds be shifted within certain Customs enforcement activities in order to cover our principal initiatives. We have identified (in coordination with Office of Enforcement staff) $2.377 million to be shifted to the Northrop Contract (specific categories of funds are identified in attachment 3). Essentially, we will increase the "Excess Costs Related to Seizures" funding from $2.0 million to $3.877 million. In addition, we propose to increase the "Destruction of Merchandise" funding from $100,000 to $600,000. These costs of destruction have risen so significantly that we intend to undertake a full-scale follow-up audit, but for now Customs has incurred these obligations and the funds are required.

Finally, the remaining shortfall of $5.230 million will be covered from the regular S&E appropriation. It appears that the current rate of spending and projected spending reductions in some cost centers will be sufficient, however we will watch this closely to ensure a deficit is avoided.

I am aware that these recommendations shift our planned spending levels from enforcement and other important programs, but in order to prevent a budget deficiency I recommend you approve the proposed plan. If you have any questions, I am prepared to discuss them with you.

William F. Riley

Attachments

Approve: KB Disapprove: _____

Mtg is scheduled for 7 Sept. from 4:30-5:00 per discussion between myself & Bill Riley. Kim

UNITED STATES GOVERNMENT
*Memorandum*

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

Date: SEP 16 1988

File: MAN-1-CM:F LG

To : Comptroller

From : Director, Office of Financial Management
and Program Analysis

Subject: Northrop Costs

The following is a schedule for the source and application of funds to cover the $12.6 million shortfall in the Northrop Contract.

| | | |
|---|---|---|
| Additional Funding Required (as of 9/1/88) | | $12.6 million |
| Less: Unallocated Reserves | $4.6 million | |
| Forfeiture Fund Reclassification | 2.4 million | |
| Projected S&E Surplus | 2.9 million | |
| Postal Reduction | 2.5 million | |
| Deobligations | .2 million | |
| Balance | | $12.6 million |

We also anticipate additional funds up to $2 million may be available as a result of potential reductions in the Customs costs for Consolidated Data Network.

Linda Gibbs

Commissioner's Briefing Paper for request & Appropriations Committees for Deficit

## Customs Seized and Forfeited Property Funding Concerns

- Customs seizes significant amounts of property annually for violations of the trade and tariff acts and various other statutes.
- Costs for handling this property are paid from appropriated funds, and a portion of these costs is reimbursed from the proceeds of sale of property.
- Since the property cannot be sold immediately (in FY 1988), anticipated reimbursements will materialize in subsequent fiscal years.
- Customs payments to Northrop Worldwide Aircraft Services, Inc., to handle all seized property will be approximately $17.0 million.
- Although the proceeds from the sale and remission of seized property are expected to exceed $9.0 million, only approximately $2.3 million can be applied as a reimbursement to the fiscal year 1988 Customs appropriation.
- Approximately $2.1 million in costs can be funded from the Customs Forfeiture Fund.
- Therefore, Customs must absorb the remaining $12.6 million from its Salaries and Expenses appropriation.
- Current legislative changes (Drug Bill) proposed for fiscal year 1989 will resolve this dilemma by eliminating the limitation on the amount which may be used from the Forfeiture Fund for seizure related costs.
- CURRENT PROBLEM
  - Customs will be required to divert $12.6 million from high priority drug enforcement programs to fund the Northrop contractor or be in violation of the Anti-Deficiency Act.
  - Customs requires support for its position that it is carrying out the Congressional mandate by using these funds for its drug interdiction program.

FIRST BUSINESS DAY FY 88
I CALLED V TO REPORT THE DEFICIT / $8
TO THE COMPTROLLER

UNITED STATES GOVERNMENT
**Memorandum**

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE: OCT 4 1988

FILE: MAN-1-CM:F LG

TO : Comptroller

FROM : Director, Office of Financial Management and Program Analysis

SUBJECT: Deobligation

This memo is in response to your note this morning relative to deobligation. As I reported to you yesterday at midday, and again at approximatly 5:30 PM, our accounting records indicate an approximate $14 million deficit, based on the CAMIS representation from CLAS of legally placed/delivered orders by Logistics on friday. This figure has been offset by $3 million dollars deobligated in today's CAMIS update bringing the deficit to $11 million . The variance from the figures I reported to you friday are largely based on: $12 million contracts placed by headquarters logistics, additional to what had been discussed with me on friday; an approximate $10 million processed by logistics that was not reported to my office on their "in the pipline" updates during the last two weeks; and several small offsetting receivables issued friday.

Treasury has requested a $10 million cushion in reserve. The cushion amount is your option. However, I would recommend you do not cut this number by less than half, requiring a minimum order cancellation from $16 million up to $21 million, if you comply with Treasury's requested cushion.

These figures are consistant with what has been provided to you last friday, and have not varied significantly in the last two weeks, except for the single transaction of a $15 million receivable, reported to you last Thursday. Obligations were made by Logistics on friday to offset this amount, in addition to the $22 million discussed in paragraph one.

This note will be received by you after the noon deadline, however, it is only a confirmation of our verbal discussion this morning.

If you have any further questions, I would be happy to discuss this issue with you further.

Linda Gibbs

5 working days: 9,437 in orders have not legally delivered changing to a deficiency instead of ...

UNITED STATES GOVERNMENT

*Memorandum*

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE: OCT 20 1988

FILE: FAC-8-CM:L:C:O SHL

TO : Director, Office of Financial Management and Program Analysis

FROM : Acting Director, Contracts and Procurement Division

SUBJECT: End-of-Year Obligations

Attached is a worksheet showing Fiscal Year (FY) 1988 procurement obligations totally $27,000,000, and corresponding reductions of $19,000,000, leaving a balance of approximated $8,000,000.

These reductions or deobligations were done to reflect the lack of available funding for the actions. The original obligations were not valid FY 1988 transactions since they were never communicated to the vendors. Although the various obligations did not occur until October 1988, they should show an effective FY 1988 date of cancellation or reduction.

Therefore, it is requested that your office show a correct FY 1988 posting data for these actions.

Stanley H. Livingstone

Attachment

| Document | Amount | Change | Balance |
|---|---|---|---|
| CS-88-01310-2 | 95,280.00 | (95,280.00) | 0.00 |
| CS-88-01512-8 | 43,338.00 | (43,448.00) | 0.00 |
| CS-88-01513-6 | 64,099.00 | (64,099.00) | 0.00 |
| CS-88-01508-6 | 30,655.00 | (30,655.00) | 0.00 |
| CS-88-01515-1 | 60,830.00 | (60,830.00) | 0.00 |
| CS-88-01511-0 | 39,014.60 | (39,014.60) | 0.00 |
| CS-88-01506-0 | 39,392.80 | (39,392.80) | 0.00 |
| Title III | 372,718.80 | (372,718.80) | 0.00 |
| CS-88-01501-1 Buy out of TECS II computer | 5,000,000.00 | (5,000,000.00) | 0.00 |
| CS-88-01499-8 FDS equipment | 2,000,000.00 | (2,000,000.00) | 0.00 |
| CS-88-01493-1 | 2,000,000.00 | (1,000,000.00) | 1,000,000.00 |
| CS-88-01495-6 | 4,000,000.00 | (2,325,000.00) | 1,675,000.00 |
| TECS II PCs | 6,000,000.00 | (3,325,000.00 | 2,675,000.00 |
| CS-88-01496-4 | 3,000,000.00 | 0.00 | 3,000,000.00 |
| CS-88-01498-0 | 1,000,000.00 | (1,000,000.00) | 0.00 |
| CS-88-01494-9 | 1,076,000.00 | 0.00 | 1,076,000.00 |
| Terminals | 5,076,000.00 | (1,000,000.00) | 4,076,000.00 |
| CS-88-01507-8 | 912,801.01 | (164,121.01) | 748,680.00 |
| CS-88-01509-4 | 2,438,428.00 | (2,438,428.00) | 0.00 |
| CS-88-01505-2 | 912,801.01 | (912,801.01) | 0.00 |
| HF/SSB radios | 4,264,030.02 | (3,515,302.02) | 748,680.00 |
| CS-88-01504-5 DES voice priv. | 4,169,256.00 | (3,922,040.50) | 247,215.50 |
| CS-88-01514-4 STU III phones | 512,850.00 | (512,850.00) | 0.00 |
| Totals | 27,394,854.82 | (19,647,959.02) | 7,746,895.50 |

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
*Office of Financial Management and Program Analysis*

20 Oct 88

To Bill Riley -

Bill - I just received this document from Stan Swayston. Please indicate your concurrence with his request to deobligate in FY 88, September business, since the accounting records are otherwise closed to further changes.

Thankyou

Sue Gibbs

Department of the Treasury
U.S. Customs Service
Office of the Comptroller

ASAP

October 20

Linda Gibbs

I do not know why you are asking for my concurrence--you know that this must be done ASAP. Please advise me when it has been done.

Bill Riley

UNITED STATES GOVERNMENT
*Memorandum*

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

sent after FY 88 end of year close

DATE:

FILE: BUD-1-CM:F

TO : Jill E. Kent
Assistant Secretary of the Treasury
(Management)

THROUGH: Assistant Secretary (Enforcement)

Commissioner of Customs

FROM : Comptroller

SUBJECT: FY 1988 Budget Condition

On September 19, 1988, a meeting was conducted in your office to discuss Customs FY 1988 budget condition. Based on our discussions concerning year-end spending and funding needs, we agreed to review our current budget commitments in order to establish a reserve equivalent to one percent of our budget (approximately $10 million).

I wish to provide my personal assurance that funds have not been legally obligated in excess of Customs FY 1988 spending authority. Approximately $8 million will be reported lapsed in the S&E budget, once year-end closing has been completed.

If you have any questions concerning financial condition, I will be glad to discuss them with you.

William E. Riley

- Riley insisted I write this to quiet Treasury questions.
- Signed copy not available -- however this was signed by both Riley and Von Robb
- Riley commented on careful wording -- I told him I didn't want him to lie and our [illegible] indicated a deficit.

UNITED STATES GOVERNMENT
*Memorandum*

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE: NOV 4 1988

FILE: FIS-2:CM:F:N:A:R TG

TO : Comptroller

FROM : Director, Office of Financial Management and Program Analysis

SUBJECT: Analysis of FY 87 Northrop Reimbursements

An urgent matter for your attention, as part of the year end closing effort, the National Finance Center prepared the attached analysis concerning the Fiscal Year 1987 Northrop contract. I reviewed the draft while I was in Indianapolis, and felt that you should be aware of the impact on Fiscal Year 1987 funding.

The analysis shows appropriation reimbursements and accounts receivable were overstated by $11.6 million at the end of Fiscal 1987. Had these been properly reduced to the appropriate balances, Customs year end Fiscal Year 1987 balance would show a $4.7 million deficit.

If you have any questions, I would be happy to discuss them with you.

Linda Gibbs

Attachment

EFFECT OF NORTHROP ACCRUED REIMBURSEMENT
ON FISCAL YEAR END 1987 REPORTS
Page Two

B SF-133 actually filed, showing $59,964,524 (line 3a) of reimbursements, and $6,914,842 (line 9a minus 10e) of funds unobligated.

C SF-133 as it should have been, showing reimbursements of $48,362,697 (line 3a) and a deficit of $4,686,985 (line 9a).

D TFS-2108 actually filed, showing $6,914,842 lapsed (col. 4) and $63,926,054 of receivables (col. 7).

E TFS-2108 as it should have been, showing cash shortage of $4,686,985 (col. 4) and receivables of $52,324,226 (col. 7).

F Analysis of FY 88 Northrop contract, for information only.

The above FY 87 analysis is for the seizure contract only. The general order contract was $958,196 for FY 87. In FY 88, adjustments were made to the accruals for both contracts.

EFFECT OF NORTHROP ACCRUED REIMBURSEMENT
ON FISCAL YEAR END 1987 REPORTS

Appropriation law and OMB circular A-34 state appropriation reimbursements from non-government sources are an available budgetary resource only to the extent cash is received by fiscal year end. Customs Chief Counsel, in an opinion dated August 24, 1987, stated reimbursements for the Northrop contract fell in the above category and were available only if the cash was received by September 30.

In accordance with Counsel's opinion, OFMPA reduced the appropriation reimbursement recorded in CAMIS to equal the amount of funds received before September 30, 1988. Fiscal Year 1988 was the first year this adjustment was made.

In the past, including FY 1988, once the Northrop contract was obligated, an accrued reimbursement for that same amount was entered. As seizure packages were processed at the NFC, a portion of the accrued reimbursement was reversed and an actual reimbursement posted. Regardless of how much reimbursement was accrued versus actual, the entire amount of the contract reflected as appropriation reimbursement, therefore providing a budgetary resource to obligate against. As stated above, for FY 88 the amount of the accrual remaining at year end (the cash not yet received) was taken off the books.

At the end of FY 87, no adjustment was made for the reimbursements not yet received. Because of this, appropriation reimbursements were overstated by $11.6 million on year end reports and Customs erroneously obligated funds against them. Had the reimbursement amount been reduced to the proper amount, Customs would have been deficit by $4.7 million.

The following attachments support the $11.6 million adjustment and show how the year end reports should have looked:

A Worksheet and documents explaining FY 87 Northrop contract, accrued reimbursement, and the overstatement of both reimbursements and receivables by $11,601,827.

Attachment A

FY 87 NORTHROP CONTRACT

Amount of the contract was $12,502,106.00, shown on the attached (Attachment A1) file inquiry from CAMIS.

| | |
|---|---|
| Initial contract, posted 12/12/86 | 13,902,981 |
| Reduction, posted 9/30/87 | (2,300,875) |
| Increase, posted 7/27/88 | 900,000 |
| Total contract price | 12,502,106 |

Amount of the accrued reimbursement was $11,602,106, shown on the attached Easytrieve report (Attachment A2) from the CAMIS history files. Transaction code (TC) 133 establishes an accrued reimbursement by debiting estimated accounts receivable and crediting appropriation reimbursements. The accrual is reversed with a TC 133 R, which reverses the debit/credit accounts.

| | |
|---|---|
| Initial accrual, posted 2/17/87 | 10,500,000 |
| Second accrual, posted 5/21/87 | 3,402,981 |
| Subtotal (equals initial contract) | 13,902,981 |
| Reduction in accrual, posted 9/30/87 | (2,300,875) |
| Total accrual for FY 87 | 11,602,106 |

No accrual was made for the $900,000 contract increase because it was posted after fiscal year end.

The Easytrieve report shows only one transaction to reduce the accrual (other than the reversal reflecting the decrease in the contract cost) before 9/30/87. The amount of this reversal, $279.00, is the only cash received before fiscal year end. The next earliest reversal is $844.99 on 10/13/87.

Following the procedure done at the end of FY88, the following adjustment should have been made at the end of FY 87:

| | |
|---|---|
| Amount of accrual | 11,602,106 |
| Amount received before 9/30/87 | (279) |
| Amount accrual should have been reduced | 11,601,827 |

Because the accrual was not reduced, appropriation reimbursements were overstated by $11.6 million on the year end SF-133 and accounts receivable were overstated on the TFS-2108.

Department of the Treasury
U.S. Customs Service
Office of the Comptroller

November 7

Linda Gibbs

Thank you for the memo on 11/4 advising of possible difficulties with 87 balances. Ed Matthews showed me a copy of your fax and I got this copy from Harry Denning. I have yet to receive the original.

While the memo provides rapid notice of a potential problem it falls very short of acceptable staff work. By not including your suggestions for remedies, you have placed that burden on me. It is your responsibility as a financial manager to solve problems not just identify them.

Bill Riley

UNITED STATES GOVERNMENT
**Memorandum**

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE: NOV 18 [illegible]

FILE: BUD-1-CM:F

TO : Comptroller

FROM : Director, Office of Financial Management
and Program Analysis

SUBJECT: FY 1987 Funding Problem

In an effort to address the FY 1987 deficit issue, we need to contact suballottees to review any open obligations from previous years. In an effort to address FY 1987, a review of FY 1986 and M-year S&E accounts has indicated no relief, as they may also have potential deficiency problems.

We will be issuing the requests for a review of previous year obligations from the National Finance Center next week, and will prepare a package for your review summarizing results. I request that the National Finance Center's legal counsel be involved in reviewing any adjustments made, due to the sensative nature of this issue.

Linda Gibbs

T 226
10/121

DEPARTMENT OF THE TREASURY
WASHINGTON

November 15, 1988

ASSISTANT SECRETARY

MEMORANDUM FOR: WILLIAM VON RAAB

FROM: JILL E. KENT
ASSISTANT SECRETARY OF THE TREASURY (MANAGEMENT)

SUBJECT: Inspector General Investigation of the Customs Service

I want to clarify some issues raised in your October 25, 1988 memorandum to Deputy Secretary McPherson, Assistant Secretary Martoche and myself.

My role during the closing of Fiscal Year 1988 was to ensure that all Treasury bureaus adhered to the rules governing use of public funds. My concerns regarding the Customs Service arose from routine review of budget execution documents and conversations with Customs' financial management staff. In the course of these reviews, my staff became aware of potential violations of the Anti-Deficiency Act in the Salaries and Expenses and Miscellaneous Permanent Appropriations (Puerto Rico) accounts.

After discussing these potential problems with other Departmental officials, I asked Assistant Secretary Martoche if he would meet with you and me to discuss these concerns. Prior to the meeting, Departmental financial staff requested documents from Customs that would provide an accurate and current picture of the true status of funds. Customs provided this report on September 19, the day of our meeting. These documents, including the attached chart, showed a potential year-end balance of $2.9 million in the Salaries and Expenses account. You stated that this was not a matter for concern. Further, you noted that the Puerto Rico account problem could be solved by recovery of a prior year obligation.

During our meeting, you informed me that you had contacted one member of Congress to discuss the possibility that Customs would violate the laws governing obligation of public funds. Reportedly, he told you that he was not concerned about this. As the Treasury Department feels strongly that adherence to these laws is important, I wanted to communicate this position to you. I was pleased to learn that you intended to see that Customs followed these laws.

I informed you that it is reasonable to lapse 0.5 percent of budget authority to cover undisclosed obligations and guard

against a potential Anti-Deficiency Act violation. I suggested that as much as twice this amount might be prudent given the problems with Customs' financial management systems. However, I did not direct that a specific amount be left unspent. By memorandum, I asked Assistant Secretary Martoche to address this with you. I did not discuss with you any other end-of-year spending issues nor any particular expenditures. Relying on Customs' data, I assumed that only minimal fund availability existed, not the larger balance that apparently materialized and was obligated subsequently without Departmental knowledge.

The attached chronology details communications between my staff and yours and describes the areas of our concern.

Attachments:

Chronology of FY 1988 Financial Management Problems
Financial Plan prepared by U.S. Customs Service
August 26, 1988 Memorandum, Wayne Grant to William Riley
September 12, 1988 Memorandum, Edwin Verburg to Linda Gibbs
September 7, 1988 Memorandum, Edwin Verburg to Linda Gibbs
September 20, 1988 Memorandum, Jill Kent to Salvatore Martoche
September 23, 1988 Memorandum, Jill Kent to Salvatcre Martoche

cc: M. Peter McPherson
Mark Sullivan, III
Michael R. Hill
Salvatore R. Martoche
John K. Meagher

UNITED STATES GOVERNMENT
***Memorandum***

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE: NOV 25 [illegible]

FILE: FIS-1-CM:F LG

TO : Comptroller

FROM : Director, Office of Financial Management and Program Analysis

SUBJECT: Year-End Statements

I would, as I am sure you would, like to settle the matter of year-end reporting (SF-133, TFS-2108 and SF-225) as soon as possible.

Issues which have delayed submission of Customs reports were, at my request, submitted for Chief Counsel review. Their opinion was received dated November 21, 1988. In accordance with the Chief Counsel opinion, knowledge obtained at meetings (October 3, 1988 - Commissioner's Office; October 5, 1988 -Commissioner's Conference Room), and information from Logistics staff, by telephone I proposed to you deobligating inappropriate charges of $7.7 million in Fiscal Year 1988 and obligating these items in Fiscal Year 1989. You stated that issue was "Logistics call" not mine. Therefore, on November 22, 1988, I submitted final year-end reports to you, for your signature; I in good conscience could not certify these statements as they included the $7.7 million in inappropriate Fiscal Year 1988 charges.

On November 23, 1988, you cancelled my annual leave for the day following Thanksgiving. (The leave had been requested on October 31, 1988, in order to spend the holiday with family in Cleveland, and had been verbally approved at the staff meeting on November 22, 1988.) By telephone you stated that I could take the leave if I signed the statement which included the $7.7 million in question, but would never take leave until I did; your reason in writing was "end-of-year reports not finalized." Therefore, I assume that if you are now representing the reports not to be final, it is because you were also unwilling to certify that the $7.7 million in question should be included in the Fiscal Year 1988 reports. To resolve this dilemma, I would be most happy, at your advise, to deobligate the $7.7 million in Fiscal Year 1988 and refinalize the year-end reports without these questionable charges; or to prepare a request to the Comptroller General, in accordance with Title 7, subsection 16.2, requesting a decision on the appropriateness of these charges as Fiscal Year 1988 obligations.

I look forward to settling this issue and I would appreciate your feedback on this matter.

Linda Gibbs

and V/T
NCE OF PERSONNEL MANAGEMENT
FPM Supps. 990-1, 1-1-4

TT-112

## APPLICATION FOR LEAVE

INSTRUCTIONS: Please complete Items 1-8 after reading the Privacy Act Statement shown below.

1. Name (Print or type—Last, First, M.I.)
Gibbs, Linda

2. Employee I.D. Number
286-56-0620

3. Organizational Unit
OEMPA

4-A FROM: Month 11 Day 25 Hour 9:00 A.M./P.M.
4-B TO: Month 11 Day 25 Hour 5:30 A.M./P.M.
4-C Total Number of Hours 8

5. I hereby request (If more than one box is checked, explain in Item 6, Remarks):
[X] Annual Leave. (Annual leave requested may not exceed the amount available for use during the leave year.)
[ ] Sick Leave. (Complete reverse side of form.)
[ ] Leave Without Pay.
[ ] Compensatory Time.
[ ] Other. (Specify)

6. Remarks
will be in Cleveland with family

7. Employee's Signature
Linda Gibbs

8. Date (Month, Day, Year)
10/31/78

### OFFICIAL ACTION ON APPLICATION

[ ] Approved [X] Disapproved (If disapproved, give reason. If annual leave, indicate action to reschedule.)
End of year reports not finalized

Signature (Annual leave approval may not exceed the amount available for use during the leave year.)

Date (Month, Day, Year)
11/29/78

NSN 7540-00-753-5067

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
WASHINGTON, D.C.

NOV 30 1988

FIN-1 CM:F

Michael R. Hill
The Inspector General
Department of Treasury
1500 Pennsylvania Avenue
Washington, D.C. 20220

Dear Mike:

I have been directly ordered by the Comptroller, William F. Riley, of the U.S. Customs Service, my immediate supervisor, to sign the Report on Budget Execution, Standard Form (SF) 133 for Customs Salary and Expense Account, which includes $2.675 million in obligations placed with EDS (Contract numbers CS-88-01493-1 and CS-88-01495-6). This order by Mr. Riley was made in front of the following witnesses:

- Michael T. Schmitz, Chief Counsel
- John P. Helm, Assistant Chief Counsel
- Dean Grothe, Comptroller's Program Management Staff
- Harry Denning, Comptroller's Program Management Staff
- Loretta J. Goerlinger, Director, Office of Logistics Management
- Edward J. Matthews, Director, Accounting Programs Division

I am signing these statements under duress and protest based on knowledge confirmed by an I.G. investigation currently being conducted by my initiation.

Linda Gibbs
Director, Financial Management
and Program Analysis

cc: Pat Stone
Merit System Protection Board
Room 1100
1120 Vermont Avenue, N.W.
Washington, D.C. 20005

Brian Murtagh, Assistant
U.S. Attorney
U.S. Department of Justice
555 4th Street, N.W.
Washington, D.C. 20001

UNITED STATES GOVERNMENT
**Memorandum**

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE: NOV 10 -

FILE: FIS-5-CM:F:N:A:C MC

TO : Edwin A. Verburg
Director, Office of Finance

FROM : Director, Office of Financial Management and
Program Analysis

SUBJECT: Standard Form 133, Report of Budget Execution

Attached is the Final Report on Budget Execution, Standard Form 133, for the period ending September 30, 1988. Certain adjustments were made to the report as of November 29, 1988. The Treasury Office of the Inspector General is currently auditing this report which may result in further adjustments.

The reliability of the data contained in the section entitled, "Relation of Obligations to Outlays and Accrued Expenditures" may be questionable-because of problems with Customs accounting system and Customs inability to presently reconcile cash. Additionally, the reports for the following funds required an adjustment to line 9A, Unobligated Balances Available, so that the balance agreed with the one reported on TFS 2108, Year End Closing Statement:

20X5687 - Refunds, Transfers and Expenses of Operations, Puerto Rico (page 4)

20X5693 - Customs Forfeiture Fund (page 5)

20X8789 - Refunds, Transfers and Expenses of Unclaimed, Abandoned and Seized Goods (page 7)

We have initiated corrective actions to resolve the CAMIS problems and we expect to provide more accurate reports in the future.

If you have any questions regarding this report, please contact Mr. Thomas E. Diaforli, Acting Director, National Finance Center on FTS 335-1220.

Linda Gibbs

Standard Form 133 — FINAL Report On Budget Execution — Sheet 1 of 11 — Period Ended Sept. 30, 1988

Department of the Treasury
U.S. Customs Service

| | | 2080602 Salaries and Expenses Unexpired Accounts | Expired Accounts | Total |
|---|---|---|---|---|
| **BUDGETARY RESOURCES** | | | | |
| 1. Budget Authority: | | | | |
| A. Appropriations realized P.L. 100 - 202 | | 988,762,000 | 0 | 988,762,000 |
| B. Appropriations anticipated (indefinite) | | 0 | 0 | 0 |
| C. Other new authority | ( ) | 0 | 0 | 0 |
| D. Net transfers (+ or -) | | (1,000,000) | 0 | (1,000,000) |
| 2. Unobligated balance: | | | | |
| A. Brought forward October 1 | | 0 | 0 | 0 |
| B. Net transfers (+ or -) | | 0 | 0 | 0 |
| 3. Reimbursements and other income: | | | | |
| A. Earned | ( 787,226) | 78,187,683 | 0 | 78,187,683 |
| B. Change in unfilled customers' orders (+ or -) | | 0 | 0 | 0 |
| C. Anticipated for rest of year | | 0 | 0 | 0 |
| 4. Recoveries of prior year obligations: | | | | |
| A. Actual | ( ) | 0 | 0 | 0 |
| B. Anticipated for rest of year | | 0 | 0 | 0 |
| 5. Portion not available pursuant to P. L. | | 0 | 0 | 0 |
| 6. Restorations (+) and writeoffs (-) | ( ) | 0 | 0 | 0 |
| 7. TOTAL BUDGETARY RESOURCES | | 1,065,949,683 | 0 | 1,065,949,683 |
| STATUS OF BUDGETARY RESOURCES | | | | |
| 8. Obligations incurred | (-30,598,306) | 1,044,835,781 | (1,103,215) | 1,043,732,566 |
| 9. Unobligated balances available: | | | | |
| A. Apportioned, category A | | 35,995,219 | 0 | 35,995,219 |
| B. Apportioned, category B | | 0 | 0 | 0 |
| C. Other balances available | | 0 | 0 | 0 |
| 10. Unobligated balances not available: | | | | |
| A. Apportioned for subsequent periods* | | 0 | 0 | 0 |
| B. Withheld pending rescission* | | 0 | 0 | 0 |
| C. Deferred* | | 0 | 0 | 0 |
| D. Unapportioned balance of revolving fund* | | 0 | 0 | 0 |
| E. Other balances not available | | (14,881,317) | 1,103,215 | (13,778,102) |
| 11. TOTAL BUDGETARY RESOURCES | | 1,065,949,683 | 0 | 1,065,949,683 |
| RELATION OF OBLIGATIONS TO OUTLAYS AND ACCRUED EXPENDITURES | | | | |
| 12. Obligations incurred, net (8-3A-3B-4A) | | 966,648,098 | (1,103,215) | 965,544,883 |
| 13. Net unpaid obligations: | | | | |
| A. Obligated balance, as of October 1 | | 0 | 104,860,582 | 104,860,582 |
| B. Obligated balance transferred, net (+ or -) | | 0 | 0 | 0 |
| C. Obligated balance, end of period | | 124,450,625 | 10,907,501 | 135,358,126 |
| 14. Outlays (12+13A+13B-13C) | ( -1,976,601) | 842,197,473 | 92,849,866 | 935,047,339 |
| 15. Change in accounts payable, net: | | | | |
| A. Accounts payable, net, as of October 1 | | 0 | (94,224,376) | (94,224,376) |
| B. Accounts payable transferred, net (+ or -) | | 0 | 0 | 0 |
| C. Accounts payable, net, end of period | | (12,436,504) | (56,996,729) | (69,433,233) |
| 16. Accrued expenditures (14-15A-15B+15C) | ( 1,943,054) | 829,760,969 | 130,077,513 | 959,838,482 |

(Authorized Officer) 11/30/88 (Date)

* From SF 132

1. 21.113.902 (line 9A minus line 10E) was lapsed on the TFS 2108. (Signed Under Protest)

UNITED STATES GOVERNMENT
*Memorandum*

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE
DATE: DEC 9 [illegible]
FILE: BUD-1:CM:F

TO : Comptroller

FROM : Director, Office of Financial Management and Program Analysis

SUBJECT: Fiscal Year 1988 Lapsed Amount

The Customs Service lapsed approximately $21.1 million at the end of Fiscal Year 1988. Attached is a detailed analysis by Office and Object Class of the amounts lapsed. It should be noted that all of the amounts lapsed had been allocated in financial plans with the exception of $6.773 million retained in reserves.

The lapsed funds were caused by a series of events. First, offices did not spend the amounts which they were allocated. Some offices spent less than 50 percent of their budgets in certain object classes. Five offices spent less than 60 percent of their services money, six offices spent less than 50 percent of their transportation funds; five offices spent less than 80 percent of their travel funds; eight offices spent less than 80 percent of rent funds and three offices spent less than 80 percent of the equipment funds allocated. The financial analysis which we provided throughout the year projected spending 99.6 percent of all funds available in these object classes. These analyses were based on input from the staffs responsible for oversight of the suballottments, and copies of the analyses were furnished to all offices.

A key factor in the budget analysis process is the assistance provided by the Program and Executive Management Staffs responsible for the office budgets. Each month, these staffs were contacted to solicit their assistance and comments on actual and projected obligations. Throughout the fourth quarter, we were consistently informed by most offices that they would be in a spend all position. This was especially true in object classes 21 through 31, and was one of the main reasons the monthly analyses prior to September showed very little projected surplus. For example, the June analysis showed only a $381,000 projected surplus. The analysis prepared after year-end, however, showed surpluses of $13 million in object classes 21 through 31.

We were unable to effectively monitor the level of spending by the suballottees at year end. During the last week of the fiscal year, we tried on numerous occasions to determine the value of unprocessed procurement documents on-hand within the Office of Logistics Management (OLM). If we would have been able to obtain more timely and accurate data, we would have been able to project funding availability at year end. OLM initially advised us that approximately $17 million in obligating documents were on-hand, and would be obligated during the balance of the fiscal year. Although this amount was lower than the projections in the financial analysis, the Department at that time was requesting that we establish a reserve of $10 million. Subsequently, OLM advised us that all but $4 million of the $17 million on-hand involved operations and maintenance procurements. When the Customs Logistics Automated System (CLAS) interface was run for September 30, about $14 million of obligations were posted to Customs Accounting and Management Information System (CAMIS). This did not include the $27 million of obligations incurred by Headquarters on that date. In addition, the following week OLM processed an additional $7 million of procurement actions through CLAS which were not included in their projections.

On April 11, 1988, you informed the Commissioner and other Customs officials of the cutoff dates for purchase requests which must be awarded prior to the end of fiscal year 1988. Your memorandum showed that the latest a purchase request should be made to the National Logistics Center was May 2, 1988, and the cutoff for interagency agreements was August 1, 1988. If this cutoff had been adhered to, OLM should have been able to provide more accurate and timely data on procurement actions which would have enabled us to determine that offices were not spending at the rate projected.

After September 30, but prior to submission of the SF-133, we identified three instances where wrong obligation figures were posted into CAMIS at year end through the CLAS interface. The problem was caused by incorrect input into CLAS by OLM, and resulted in obligations being overstated by $8.3 million. Problems of this type are found when the NFC reviews the documents which OLM provides several days after the interface runs. The obligations amount in CAMIS has been properly reduced, and the SF-133 was adjusted accordingly.

In prior years, the Customs Service generally reviewed obligations to identify amounts which should be deobligated after the end of the fiscal year. To maximize the availability of funds for fiscal year 1988, the National Finance Center, on August 23, 1988, requested assistance from the Program Management and Executive Management staffs in determining the validity of about $21.4 million of unliquidated obligations for the fiscal year. The purpose of the evaluation was to ensure accurate reporting in CAMIS and to identify funds that may be used for fiscal year-end procurement needs. This memorandum request was reinforced by an Information Notice issued to all Customs employees by you on September 16, 1988. As a result of these efforts, approximately $2.3 million was made available. If we had continued the practice followed in previous years, our year-end obligations would have reflected this amount higher. Although in previous years these funds would not have been reported as lapsed at year end, management did not have the flexibility to use these funds.

Lastly, on September 29, OFMPA prepared an analysis for you comparing the financial plans to actual obligations. Based upon this review and substantiated by our previous monitoring, I met with you and Lorey Doerlinger early on September 30, and we agreed that $15 million in additional obligations could be covered by fiscal 1988 funds, provided the obligations were legally incurred. Instead of proceeding on this basis, Headquarters Logistics processed $27 million in orders through CLAS, initially causing our year-end general ledger balance to reflect a deficit. However, since these orders had not also been legally placed with vendors, we have had to deobligate these orders. All but $2.7 million had been removed prior to submitting the Salary and Expense SF-133 to the Department.

The above analysis identifies the circumstances which resulted in the lapsing of the $21.1 million. This memorandum does not attempt to address actions taken by my office to improve fiscal accountability. If you have any questions regarding the analysis or would like additional information, please let me know.

Linda Gibbs

Attachments

DEPARTMENT OF THE TREASURY
WASHINGTON

February 27, 1989

MEMORANDUM TO: Salvatore R. Martoche
Assistant Secretary of the Treasury
for Enforcement

FROM: Director of Audit (FMS)
Office of the Inspector General

SUBJECT: Audit Report on Alleged Mismanagement of the U.S. Customs Service Fiscal Year 1988 Appropriation

The attached report presents the results of the audit segment of an investigation into allegations that the U.S. Customs Service (Customs) mismanaged its Fiscal Year 1988 appropriation. The allegations were that Customs obligated more funds than it was appropriated, and as a result, violated the Antideficiency Act, postdated documents, and entered Fiscal Year 1988 obligations into its accounting system after the Fiscal Year had ended.

In summary, it appears Customs was not deficient at September 30, 1988, even though a $7.6 million negative balance was recorded in its general ledger at that time. However, the allegations that Customs postdated documents and entered Fiscal Year 1988 obligations into the accounting system after the Fiscal Year had ended were substantiated. We also identified several internal control weaknesses which may increase Customs' vulnerability to the processing of improper or fraudulent procurement actions and limit the accuracy of its financial accounting and procurement systems. We recommended corrective actions to Customs management that, if properly implemented, should correct these weaknesses.

Your responses to our recommendations in a draft of this report have been incorporated on pages 12 through 14 and are included in their entirety as Appendix VI. The corrective actions planned or implemented should correct the weaknesses identified in the report.

We appreciate the courtesy and cooperation extended to our staff during the audit.

Maurice S. Moody

Attachment

cc: Deputy Secretary of the Treasury
Assistant Secretary of the Treasury (Management)
Commissioner of the U.S. Customs Service
Comptroller of the U.S. Customs Service

According to a Customs official, although Customs does not have an internal written policy on fourth quarter procurement actions, Customs follows the end-of-the-year procurement controls established by TAPR Section 1007.173. The policy requirements state:

> "Procurement actions during the fourth quarter of the fiscal year must be closely evaluated by bureau management officials....To provide such an evaluation, each procurement action in excess of $25,000 that is to be awarded during July, August or September must be reviewed and approved (by signature on an appropriate document placed in the official contract file) by one of the following officials:
>
> (1) the head of the bureau;
> (2) the Assistant head of the bureau having responsibility for the procurement function; or
> (3) the head of the bureau's field office having contracting authority."

A memorandum dated October 28, 1988, from the Commissioner to Treasury officials stated that he was responsible for reviewing and approving all proposed fourth quarter expenditures in excess of $25,000. Our review indicated the Commissioner did participate in meetings where fourth quarter procurement actions were discussed. However, for some delivery orders the Commissioner's fourth quarter approval memorandums were prepared after the fact, and the Commissioner's signature was backdated to September 30. (See Appendix IV.)

APPENDIX IV

Analysis of the Commissioner's
Fourth Quarter Approvals
Fiscal Year 1988

| Six Delivery Orders as of 9/30 | Amount | |
|---|---|---|
| #01493-1 | $2,000,000 | |
| 01494-9 | 1,076,000 | |
| 01495-6 | 4,000,000 | |
| 01496-4 | 3,000,000 | |
| 01504-5 | 4,169,256 | |
| 01507-8 | 912,501 | $15,158,057 |
| Two of Six Delivery Orders Modified 10/11 | | |
| #01493-1 | <1,000,000> | |
| 01495-6 | <2,325,000> | < 3,325,000> |
| Two of Six Delivery Orders Modified 10/12 | | |
| #01504-5 | <3,922,040.50> | |
| 01507-8 | < 164,121> | <4,086,161.50> |
| Net obligations as of 10/12/88 | | $7,746,895.50 |
| The Commissioner's four signed fourth quarter approvals total as of 9/30/88 | | $7,750,550.00 |

Chairman PICKLE. I have other questions but let me yield to Mr. Schulze.

Mr. SCHULZE. Ms. Gibbs, I am going to ask you some questions for background material but let me state that this committee has been thirsty for someone to come forward and tell us the straight story of some of these allegations. While your charges are serious, and we do intend to look into them, you are to be congratulated for your candor and for your courage in coming forward today, and we appreciate it.

I will follow up on a question the chairman just asked. Would you describe your present position and your level of responsibility now and how you fit within the organizational structure at Customs now?

Ms. GIBBS. I am titled as management adviser, and I report to the Comptroller's assistant. I have no assigned duties or responsibilities.

Mr. SCHULZE. No assigned duties or responsibilities. Now, will you tell us what your position was immediately preceding this?

Ms. GIBBS. I was the Director for the Office of Financial Management and Program Analysis. I was the Chief Financial Officer for Customs Service and I had a staff of approximately 300 people located in the Washington, DC, area, and the Indianapolis Finance Center.

I was essentially responsible for all the accounting and budgeting matters within the Customs Service.

Mr. SCHULZE. Would it be fair to say that you were the No. 3 person responsible for financial matters behind the Commissioner and the Comptroller?

Ms. GIBBS. I would have been the third one in line, yes.

Mr. SCHULZE. And were you, let's say, the first in line with financial expertise?

Ms. GIBBS. Yes.

Mr. SCHULZE. Would you please describe your dealings with officials in Treasury and the inpsector general when you solicited support for your findings? How were you received and what actions have they taken to date to deal with your charges?

Ms. GIBBS. The inspector general and his staff were always very receptive and supportive. They followed through with an audit and an investigation.

The staffs within Treasury, and I frequently spoke with members of the Office of Finance and the Comptroller's staff, were sympathetic and concerned. However, there was a great deal of concern about getting involved, a hands off attitude, as they had an oversight function, and as a policy did not get directly involved in the day to day operations of the Customs Service. They expected Customs to resolve their own issues.

In one case I set up a meeting regarding the previous years deficiencies. I had reported the issue to my boss, the Comptroller, and got back a note not to burden him with the issue and just take care of it. That would have been illegal and involved a coverup.

I set up a meeting with the Director for the Office of Finance and the Comptroller. I took one of my staff members. They each had staff members. We discussed it at great length. They told me that they were very concerned but there was nothing that they

could really do. They specifically said that I should go back to Customs and try and work the issue through the system even though I was receiving no support at that time. We were in the midst of the inspector general investigation and essentially I had been excluded from all meetings with senior management in Customs because of my having reported to the IG.

They also suggested I report the issue to the IG, which I did do.

Mr. SCHULZE. You mentioned that you were removed from the SES by the Commissioner. Is that correct, and why did the Commissioner remove you, and can you describe the circumstances behind that action, and what rationale was given to you?

Ms. GIBBS. Yes. Shortly after I reported the problems at year end to the Treasury Inspector General, I was put on a performance improvement plan, which required a 60-day lapse. At the end of that 60 days I was given an unsatisfactory rating. The performance improvement plan was given to me 21 days after the Commissioner signed the satisfactory rating. When I received the unsatisfactory rating 60 days later, I was given the opportunity to respond.

There were three review boards, two independent and one Customs. The two independent review boards stated that they could not substantiate the allegations against me. The Customs review board, of course, said that I was a terrible person and basically was not doing my job.

The Commissioner overrode the independent reviews, including the Treasury review board, which was the third review board, and specifically said that he would support the unsatisfactory rating, removing me from the job and removing me from the Senior Executive Service.

Mr. SCHULZE. Who told you about this?

Ms. GIBBS. I was given a letter to that effect. The Commissioner, however, is one of the individuals, and certainly a key individual, that I did report to the inspector general just prior to that.

Chairman PICKLE. Will you yield?

When you first came to work for Customs Service you were interviewed and told by Treasury and Treasury expressed to you very clearly they were concerned about some of the rumored past practices within the Customs Service?

Ms. GIBBS. Yes.

Chairman PICKLE. And they wanted to get some of this cleared up. When you intended to do that and refused to sign this overobligation fund requirement, and you reported that to Treasury, did Treasury support you on that?

Ms. GIBBS. No, they did not. I received sympathy but they would not get involved.

Chairman PICKLE. Did you talk to the same people who had interviewed you earlier?

Ms. GIBBS. Yes, I did.

Chairman PICKLE. But they did not support you? Why didn't they support you?

Ms. GIBBS. They did not want to get involved in the issue and basically become known as part of the issue. They stated that they would just let it ride itself out.

Chairman PICKLE. Can you give us any names so we might look into that further?

Ms. GIBBS. During my interviews I had interviewed with Jill Kent, who was then the Deputy Assistant Secretary for Management. She was later the Assistant Secretary of Management.

I also interviewed with Sam Mok, who was the Comptroller and is the Comptroller of the Treasury.

Chairman PICKLE. Thank you.

Mr. SCHULZE. Thank you, Ms. Gibbs.

Now, would you please describe the level of involvement of the personnel with technical expertise in the financial area, whether they have MBAs or CPA, those involved in the development of Customs automated financial system and in the current task force that is set up to correct it and identify the problems?

Ms. GIBBS. That is, as I said in my earlier testimony, one of my concerns. There is a task force presently looking at the general ledger system and it is being run by the Office of Data Systems. Those individuals do not have a financial background. There is one individual who does not have an accounting degree, but was from the financial staff that has been reassigned to support the task force. He does provide limited financial expertise to that group.

Mr. SCHULZE. One individual?

Ms. GIBBS. He does not have an accounting degree.

Mr. SCHULZE. The task force was assigned or appointed by whom?

Ms. GIBBS. By the Comptroller. There is also a task force looking into some other financial problems. One of the key individuals on that task force came to the financial staff and asked what a general ledger was—a fairly basic part of a financial system.

Mr. SCHULZE. You mentioned in your statement possible violations of the appropriations law due to Customs practice of using accrued receivables to cover obligations out of the forfeiture fund. Can you explain that practice in layman's terms and how long has that gone on? Was this additional source of funds used only for Northrop charges, or for other non-Northrop purposes as well?

Ms. GIBBS. In layman's terms, it is a practice booking or writing receivables, in other words saying you are owed money and making the financial records look as if there were income and then spending money against that income. There is no way to prove that that money was being used for just Northrop costs and/or anything else. This year at the end, there were a number of radios and computer equipment that were procured with those items and spending, was not discriminate to Northrop.

Going back in previous years, my staff, or what was my staff, was able to pull together documentation in 1987 and what was available in previous years, 1986 and prior; 1986 and prior, a lot of the documentation was lost and so it is very hard to reconstruct. But there is approximately $40 million in unsupportable receivables sitting on the books for this period, and there is no way to substantiate those receivables. There is no way to collect those funds because nobody knows who owes that money, or if one really does.

If in fact, these receivables were taken off the books Customs would be deficit during those prior years. In 1987 there were specific entries that we could follow up on that used accrued receivables. Basically, booking entries to show that Customs was owed money,

without documented support. If those entries were taken off there would be a deficit in 1987 as well.

Mr. SCHULZE. Why was this practice not corrected and caught before?

Ms. GIBBS. Chief counsel in 1987, did in fact write a legal opinion to the Assistant Commissioner for Internal Affairs, and wrote a letter to the Commissioner addressing this particular issue and stating it was illegal. Therefore, the fact that it happened in 1987——

Mr. SCHULZE. The Commissioner was aware of this and yet it continued?

Ms. GIBBS. Yes. During my interview he said that there were receivables issues that would have to be looked into at some point. I had not seen the legal opinion until August 1988, and even at that time was pressured to continue the practice through 1988 for consistency.

Mr. SCHULZE. Mr. Chairman, that is all.

Chairman PICKLE. Mr. Shaw.

Mr. SHAW. I want to focus for a moment, if I can, on the Northrop contract. Reading from your statement:

> In August 1985, USCS awarded a contract to Northrop Worldwide Aircraft Services, Inc., for the receipt, custody, management and disposal of property seized by, and forfeited to the Customs Service. Also, Customs created the Seized Property Division within their Office of Logistics Management, to provide a focal point for overall program management.
>
> Getting back to the issue, the Northrop contract was originally represented as a cost savings, and a contract that would pay for itself from proceeds related to the sale of this same seized property. However, the contract costs increased significantly and could not be covered from proceeds alone.

You went on that

> In fiscal year 1988 the contract increased from a planned $12 million for the year to $17 million by year-end with no justification provided to the financial staff for this change. Of these costs, $12.6 million could not be covered from proceeds or monies available for expenditure in the forfeiture fund.

Ms. Gibbs, have you read the Northrop contract?

Ms. GIBBS. I have skimmed through it early on when I came with Customs.

Mr. SHAW. Do you know how Northrop is compensated for what they do?

Ms. GIBBS. Basically they bill Customs for the amount of effort and Customs does reimburse them.

Mr. SHAW. Do you know how that amount is arrived at?

Ms. GIBBS. Not specifically. The logistics staff has several people that review that.

Mr. SHAW. Let me enlighten you on that and that might answer a lot of questions you have in your mind as to how this billing mounted up. In November 25, 1985, at the House Judiciary Crime Subcommittee, which was shortly after this contract was let, I raised questions with regard to that contract and I am reading from the record:

> Let me (Shaw) ask you another question. I have a little concern about the terms of that contract. It seems to me almost a disincentive to dispose of the vessels.

We were talking about ships at that time—

Since the contract is given in such a way that it is a cost plus situation. In other words, the more they spend, the more they get, with a possibility of losing a bonus at the end if they proceed in a matter that was considered to be outstanding by the Administration and that was up about a million dollars in the year bonus. Why are they likely to do it that way?

I went on following up with another question:

I was just wondering why there wasn't some profit incentive in there so Northrop would be awarded in accordance with how much the Federal Government obtained? That was the way the private sector works.

The Northrop contract is based upon additional compensation for additional expenditure. They pay the bills. They send the bills to the Federal Government. The Federal Government pays it. Then at the end of the year, they get a percentage based upon what they spend.

Ms. GIBBS. Yes.

Mr. SHAW. Now, is it your testimony to this committee that with these forfeited assets, those huge yachts, these huge tankers, these homes, the aircraft, all the things that Northrop is taking care of, the assets that are under their control, that we are actually losing money in holding these assets and then selling them?

Ms. GIBBS. Yes.

Mr. SHAW. And that is the shortfall that you have referred to?

Ms. GIBBS. Yes, plus funds that were paid from the forfeiture fund, specifically set aside to cover those costs. Income received, forfeiture fund money and $12.6 million shortfall cover the costs of that contract.

Mr. SHAW. Mr. Chairman, as one that worked on this RICO fund back on the Judiciary Committee, one that looked at this thing back in 1985, and you say the contract was a couple of months old at the time I asked these questions, it seems that a lot of looking has to really take place at this time.

This contract was built for somebody not to be efficient. I am not making any allegations here except that we, the Federal Government, gave the opportunity. I would like to see, Mr. Chairman, for us to follow up on this and take a very, very hard look at exactly what has transpired.

I think that we should go down back to Miami, this Oversight Subcommittee, and take a look at exactly what has happened and how efficiently they have operated or inefficiently. I can tell you that looking at the RICO statute—the RICO statute was set for two things.

One was to punish people by seizing the assets derived from an illegal activity, but also it was contemplated by the Congress that the Federal Government would make money out of this thing.

And if we are losing money, that is absolute insanity. I think it should be a great concern to this committee.

I would like to thank Ms. Gibbs for coming here.

Chairman PICKLE. Each one of these points will be followed through. I appreciate your comment.

Mr. SHAW. I hope it would be under the Northrup contract as well as the other matters.

Chairman PICKLE. The Chair recognizes Mr. Dorgan.

We will have to adjourn for 10 minutes in a moment.

Mr. DORGAN. Ms. Gibbs, if someone asks the person to whom you are now reporting why you have no duties or responsibilities or assignments, what would the answer be, do you think?

Ms. GIBBS. He told me he was not able to obtain assignments from the Comptroller, that I was allowed to handle on my own. He was trying to work something out, but to date he had not been able to give me anything.

Mr. DORGAN. How long has that been the case?

Ms. GIBBS. Essentially since Christmastime.

Mr. DORGAN. Who is this person that tells you this?

Ms. GIBBS. This is the Director of the Program Management Staff for the Comptroller. Essentially, that is his staff assistant.

Mr. DORGAN. Since Christmastime you have essentially not had any duties to perform or responsibilities?

Ms. GIBBS. Except I attended the Federal Executive Institute in January for 1 month.

Mr. DORGAN. These folks probably consider you a nuisance?

Ms. GIBBS. I have no doubt of it, sir.

Mr. DORGAN. Did you take heart from the Government testimony this morning?

Ms. GIBBS. Very much so.

Mr. DORGAN. That seemed to corroborate some of your testimony?

Ms. GIBBS. It has. I have also had members from the GAO call me and ask me when I was getting back in that position.

Mr. DORGAN. I suspect there are whistleblowers who blow the whistle when the whistle shouldn't be blown and maybe a real pain and a real nuisance. There are others who blow the whistle when it is appropriate.

My guess is that under any condition it is probably a very uncomfortable position to be here. I respect you for speaking out and being present today and look forward to being able to question the Customs officials and Treasury officials on these matters.

Ms. GIBBS. Thank you.

Chairman PICKLE. Ms. Gibbs, if these practices are taking place in Chicago or Los Angeles, and if we have problems in the forfeiture area, would you say the former Director of the Office of Financial Management Program, that these same type of violations are probably taking place throughout the United States.

Ms. GIBBS. It seems probable, sir. I don't think there is any way to really determine to what extent that those violations may be occurring.

Chairman PICKLE. Again, I want to thank you for your testimony. It took courage for you to come here. Other agencies and other individuals have a right to respond to your statement.

I hope you will stay with us.

Our next witness will be David Nummy, a representative from the Department of Treasury.

We will stand adjourned now for approximately 10 to 15 minutes.

[Recess.]

Chairman PICKLE. The Chair will ask the committee to come to order.

I didn't need to ask Treasury to take their position. You anticipated. I see we have here David Nummy, Acting Assistant Secre-

tary of the Treasury for Management, and you are accompanied by Samuel Mok, Comptroller, Michael Smokovich.

Is there another gentleman here?

Mr. MOODY. Yes. I am Mr. Moody with the Office of Inspector General.

Chairman PICKLE. I am glad to have you.

Mr. Nummy, if you would proceed with your testimony, sir.

**STATEMENT OF DAVID M. NUMMY, ACTING ASSISTANT SECRETARY OF THE TREASURY FOR MANAGEMENT, U.S. DEPARTMENT OF THE TREASURY, ACCOMPANIED BY SAMUEL T. MOK, COMPTROLLER; MICHAEL T. SMOKOVICH, ASSISTANT COMMISSIONER FOR FEDERAL FINANCE, FINANCIAL MANAGEMENT SERVICE; AND MAURICE S. MOODY, DIRECTOR OF AUDIT FOR FINANCIAL MANAGEMENT SERVICE, OFFICE OF THE INSPECTOR GENERAL**

Mr. NUMMY. We would like to thank you for the opportunity to appear today to provide the Treasury Department's perspective on accounting and internal control systems within the U.S. Customs Service.

As you pointed out, I am the Acting Assistant Secretary for the Treasury. I have been with the Department for approximately 2 months.

Mr. Smokovich on my left here is the Assistant Commissioner for Federal Finance for the Financial Management Service. On my right is Samuel T. Mok, Comptroller for the Department of Treasury.

The Department's philosophy in general is to delegate operational authority commensurate with responsibility to its bureaus. The Department monitors performance and provides support and assistance where appropriate. In the case of Customs, we are actively involved in assisting Customs in its efforts. Resolving the problems we are discussing here today is receiving a high priority from the Department.

The Customs Service has been experiencing continuing problems with the ability of its financial management systems to produce complete, accurate, and timely data. In our 1986, 1987, and 1988 Federal Managers' Financial Integrity Act, FMFIA, Reports to the President and Congress, the Department was able to provide assurance that all of Treasury's systems of accounting and internal control conform to the standards prescribed by the Comptroller General except those of the U.S. Customs Service. At the present time, Customs' systems contain problems in the areas of: general data integrity; the ability to produce accurate and reconcilable external and internal reports; reconciliation between general ledger and subsidiary accounts; and discrepancies between reported collections and deposits.

The Department has taken several steps to help Customs' remedy the problems identified as a result of the FMFIA review process. In October 1987, the Assistant Secretary [Management) furnished Customs with an action plan to correct known problems and identify any additional deficiencies.

In response, Customs developed its own comprehensive plan to correct systems weaknesses. Customs' plan included the procurement of contractor support for a complete review of its financial systems, which was approved by the Department in January 1988. The contractor's final report was issued in October 1988, and confirmed many existing problems in addition to identifying several new issues.

Concurrent with the contractor's systems review, a departmental team was formed to perform a study of Customs' financial management structure and practices. The study team's report was completed in September 1988, and contained a variety of recommendations for improving the financial management organization and practices of the Customs Service. Customs has generally implemented those recommendations which could be accomplished in the near term, and is still in the process of addressing the more complex issues requiring a more protracted time period to complete. The subcommittee has previously been furnished copies of the contractor's review and the Department's study.

Customs has recently formed an internal task force to direct and coordinate the correction of all known financial systems deficiencies. The task force reports to Customs' Deputy Commissioner. On a continuous basis, my office reviews Customs' plans, identifies issues that merit attention, and encourages prompt corrective actions in order to provide the necessary guidance and support to resolve the financial system problems. As part of that evaluation, we conduct periodic progress reviews with Customs' senior financial management officials. Finally, the Deputy Commissioner and I meet monthly to discuss the progress being made.

We are encouraged by the direct involvement of Customs' Deputy Commission in the FMFIA corrective action process, as this indicates a commitment by Customs' top management to resolve Customs' financial management problems. We believe Customs is now taking a reasonable approach toward correcting its accounting and internal control problems, and are optimistic that current initiatives will yield true results.

I will now be happy to respond to any questions you might have.

Chairman PICKLE. Mr. Nummy, I must say this is a rather brief statement of this very serious matter. I am glad to know that you are looking into these matters and that you are attempting to resolve the problems we are discussing here today and that they are receiving high priority within the Department.

Have you been here? Did you hear about the embezzlement charges being made and being tried now?

Mr. NUMMY. I have been made aware of these charges, yes.

Chairman PICKLE. How long have you known it?

Mr. NUMMY. I would say I became aware of that somewhere in the last two weeks.

Chairman PICKLE. This type of practice, according to witnesses, has been going on for a number of years and is an invitation for discrepancy between the time deposits are made and collections are made. Do you agree with that?

Mr. NUMMY. The discrepancies between collections and deposits have been ongoing for some time.

As a matter of context, the discrepancies, the number used here today is about $54 million.

While I would not understate the importance of this problem, I do view it in that context, that it is not a problem that is at a crisis level.

Chairman PICKLE. Well, you said you have known about these embezzlement cases for about 2 weeks. For several months these things have been tried and been in the newspaper. Why is it you just now know about it if your office holds continuous review of this?

Mr. NUMMY. I am speaking for myself. I would image that my staff who has been involved in this, has known about it for some time.

Chairman PICKLE. If your staff has been involved in it and not notified you, does that indicate that you do not give this matter very high priority?

Mr. NUMMY. No, sir, that would not be a fair statement. There are hundreds of investigations going on in the Department of Treasury and there are numerous court cases and investigations conducted by the inspector general.

Chairman PICKLE. Do you agree with the GAO's reporting of this problem?

Mr. NUMMY. I agree that there is a problem there without a doubt, yes.

Chairman PICKLE. Now, they said that they have reported, and it is your own operation that reported to Treasury and Treasury reported down the street to the White House. This is a very serious matter. Yet GAO says relatively very little has been done to correct this within the last two years.

Are you familiar with that?

Mr. NUMMY. I am aware the problem has been reported to Congress and to the President by the Department within the last few years. I am also aware that there have been efforts taken by the prior Administration. I guess I can only address my own situation.

Upon my first reporting to the Department of Treasury, problems at Customs was brought to my attention. Upon my first meeting with—officials at Customs, I raised the issue. I specifically raised the issue with Mr. Lane, who is the person overseeing the task force.

I think we are both in general agreement that the problems are real, they need to be fixed in a rational method.

Chairman PICKLE. We would agree that it should be fixed in a rational manner and not any crash approach that causes headlines, but the headlines may, in fact, simply be telling us of a very serious problem that does exist.

Are you aware of any other cases similar to the one being reported in Chicago and the Los Angeles incident?

Mr. NUMMY. No, sir, I am not.

Chairman PICKLE. Well, our committee reported to you that we have already, since this question was raised, already found four instances in Los Angeles, I think, two in New York and others. They are beginning to crop up all around.

You are not familiar with any of those cases?

Mr. NUMMY. Sir, I am not familiar with the specifics. I am aware that there are problems out there. I am also aware that they are under investigation by the proper people to investigate. I guess I would be, my position is once those investigations are completed——

Chairman PICKLE. I guess I am going to ask again the same thing as before. You are representing the Treasury, you said in your statement you acknowledged that Customs has had a continuous problem with its financial management system. Can you—would you tell me how serious are they?

Mr. NUMMY. How serious are the problems?

Chairman PICKLE. Are they serious?

Mr. NUMMY. Yes, sir. The Department has been unable to certify in its FMFIA.

Chairman PICKLE. How many years has Treasury or Customs had this problem?

Mr. NUMMY. I am certainly aware that the last 3 years' reports indicate those problems were present.

Chairman PICKLE. If you, yourself, haven't heard about these problems, I——

Mr. NUMMY. If I could clarify?

I am not aware of the specific investigations going on and specific cases because it is really an investigatory matter. I have been aware since almost the first day I came to Treasury that there are problems with the financial management systems at Customs.

Chairman PICKLE. Earlier, Ms. Gibbs testified that she was pressured to sign this overobligation approach. Are you familiar with her case, this statement?

Mr. NUMMY. Yes, sir.

Chairman PICKLE. Had you heard her allegation before you came up here today?

Mr. NUMMY. Yes, sir.

Chairman PICKLE. How do you respond to her statement?

Mr. NUMMY. Her statement is under investigation by the Attorney General. I was aware of that the first day it was brought to my attention. In my opinion, that is the proper place for it to be at the moment.

Chairman PICKLE. Is that case still pending with the inspector general as to whether these allegations are true?

Mr. NUMMY. That is my understanding that it is still ongoing, yes.

Chairman PICKLE. Have you looked into any of these allegations she made?

Mr. NUMMY. No, sir, I do not believe that would be appropriate.

Chairman PICKLE. You said that the task force has been appointed and that they report directly to you?

Mr. NUMMY. They report directly to the Deputy Commissioner of Customs who would then——

Chairman PICKLE. Who is on that task force?

Mr. NUMMY. I know it is headed up by the Deputy Commissioner. I am sure he will be able to provide the members far more accurately than I could.

Chairman PICKLE. I want to know which one of you.

Mr. Smokovich, can you tell me whose on that task force? Or Mr. Mok, can you?

Mr. MOK. Sir, it is my understanding Rod McDonald is in charge of the task force. Are you referring to the Customs' ACS task force?

Mr. NUMMY. The task force I referred to is an overall task force to correct all the problems associated with Customs.

Chairman PICKLE. I am asking you who actually constitutes that task force. Is it just a Customs task force?

Mr. NUMMY. It is a Customs task force, yes, sir.

Chairman PICKLE. Do you know who is in it?

Mr. NUMMY. I know who it reports to. I do not know the specific members.

Chairman PICKLE. You don't know the members of the task force?

Mr. NUMMY. No, sir, I don't.

Chairman PICKLE. You say the task force has been appointed. I don't want to belittle that fact, but I am glad it has been appointed.

On the surface, it seems to me you are giving me a rather cavalier answer. You don't know much about these cases.

It seems to me you are not giving any priority to this whole question, that is, there is no system in place to reconcile differences between deposits and collections.

The report has been made to Treasury for 2 years now. Customs themselves said we are going to cure this in 1987. Yet GAO just testified an hour ago that very little, if anything, has been done to correct it. And you, Treasury, to whom they report, sit by with a pleasant surprise.

It seems to me like Treasury has not given any priority to this question. If you don't know who is on the task force, are you just going to assume they are going to do it fair?

Mr. NUMMY. Sir, I take issue with a couple of things you stated in that question. I don't think it is accurate to say that this is not a high priority within the Department.

However, I would point out that it is the Department's philosophy that the bureaus run themselves. We have 13 different bureaus, 155,000 employees. Within my office, I have 100. So I would never report that I know every detail of every problem in every bureau.

I am aware that overall there are problems in Customs. It is a big priority with me.

I believe that the approach that they are taking is reasonable. I believe that the fact that they are attempting to solve their own problems is an appropriate approach.

I don't think it is proper for us to get involved with a specific level of detail at the Department level.

It is correct, I don't know the individual members of the task force within Customs. However, I do look at the results and confer with the Deputy Commissioner on the results.

Chairman PICKLE. We will ask that, of course, of Customs, and we will get that report.

Did Customs appoint a task force of the same people who have not given any attention to this, or meaningful, productive attention.

You have to ask yourself who is going to be checking on whom? I don't know how many corrections ought to be made.

Mr. NUMMY. If I could respond to that.

One of the items that I believe is positive, this is the first effort within Customs, as I understand it, that has had the involvement of the No. 2 man in Customs. I think that is probably the most positive aspect.

Chairman PICKLE. Ms. Gibbs testified that she attempted to bring some financial, some order to this system. Treasury said they were suspicious about some of the past practices of Customs in controlling these things. They wanted to get somebody in there to try to straighten it up.

Were you in any of those conversations with her?

Mr. NUMMY. No, sir. I was not there at the time.

Chairman PICKLE. Do you know who in Treasury she reported this to? She said Treasury didn't want to get involved and said they didn't want her to get mixed up in it?

Mr. NUMMY. I believe she referenced the Office of Finance and she referenced the Comptroller in her testimony.

Chairman PICKLE. Have you talked to the Comptroller about this particular allegation?

Mr. NUMMY. Yes, sir. The Comptroller is here with me today.

Chairman PICKLE. Is that Mr. Mok?

Mr. MOK. Yes, sir.

Chairman PICKLE. Mr. Mok, would you comment on that?

Mr. MOK. Linda Gibbs did report her concerns to us. I think, "there was suspicions," is not an accurate statement because we have been reporting the situation at Customs to the White House and to both Senate and the Congress about our findings at Customs through our own internal mechanism.

When she came to Treasury, I had a conversation with her before she took the job. I expressed my concern about the situation in Customs. Some of these we know for a fact, and we would like to make sure that she, if she takes the job, she will be able to correct these problems.

Chairman PICKLE. Mr. Mok, when she reported to Treasury that in her opinion she had been pressured to sign these overobligation statements and that she refused to do it and she reported it to the Treasury, did she talk to you?

Mr. MOK. Yes, sir, she did.

Chairman PICKLE. And you are saying that her statement is incorrect?

Mr. MOK. No. I was referring to an earlier statement that Treasury had suspicions about what is going on. I want to clarify that.

I don't believe Treasury has suspicions. We know for a fact that there are problems in Customs.

Chairman PICKLE. If she reported it to you and asked for your help and you disagree with her and said that was not an accurate appraisal?

Mr. MOK. No. The word "suspicion" is probably an incorrect description on her part.

Chairman PICKLE. What did you tell her to do then?

Mr. MOK. When she came to me, there was a meeting that I attended with one of my staff and also the Director of Finance who is responsible for the budget process. I have no jurisdiction over Budget at Treasury. I, among other people at the meeting, advised her to get details and please come back and let us know. I, to the best of my recollection, told her three things.

One is, has she informed management at Customs because we do not want her or any staff at bureau level to usurp their own supervisors. We would be happy to get involved once she presented the facts and details and at the same time bureau management are informed.

Mr. SCHULZE. May I interject?

Mr. Mok, we are saying that she came to you saying she was being pressured by her superiors to do something which was illegal, and your response was to tell her to go back and deal with those people?

Mr. MOK. No, sir.

Mr. SCHULZE. That is not what you said?

Please explain it to me so I understand.

Mr. MOK. OK. When she first——

Mr. SCHULZE. No. When she was being pressured to sign those documents and she said no, they are illegal. You said she called and talked to you.

Mr. MOK. We had several discussions prior to that. At that point when she reported she was being pressured, I advised her to see the inspector general.

Mr. SCHULZE. All you said is we wash our hands of it. Go see the inspector general. It is not our problem.

Mr. MOK. No, sir. Because of her coming to us there was a group of people——

Mr. SCHULZE. What did you tell her to do? You just said go to the inspector general or did you tell her specifically to take any action?

Mr. MOK. I advised her to collect specific information, show us the calculations, show us the schedules and at the same time make that information——

Mr. SCHULZE. I understand she compiled five loose-leaf books all interrelated and collated. Is that correct? And she sent them over?

Mr. MOK. I did not see them, sir. She talked to me in a general conversation about the problem.

Mr. SCHULZE. You did tell her to go back and get information? In other words, you said bring us proof and then go to the inspector general?

Mr. MOK. No. I told her bring us proof so we can look at it, also inform the inspector general. I also informed my superior and the inspector general at the same time about the conversation I had with her.

Mr. SCHULZE. You did tell her go on back to Customs and work it out with them?

Mr. MOK. I told her to get specific information——

Mr. SCHULZE. Did you tell her to go back to Customs and work it out with them?

Mr. MOK. In the beginning, I did, sir.

Mr. SCHULZE. Thank you.

Mr. MOK. With the management.

Chairman PICKLE. Mr. Mok, I understand that Ms. Gibbs did not sign a document because she didn't believe that was the proper approach and that someone else was put in that position who later did sign the document that did include the report of overobligation.

The report that was finally signed by whomever did sign off on it, was it the same report that she was asked to attest to originally or had it been altered in any way?

Mr. MOK. I have not personally reviewed those reports because those reports did not come to my office. They go to the Finance Office.

Chairman PICKLE. I ask Mr. Nummy or Mr. Smokovich.

Mr. NUMMY. It is my understanding the initial report came over and there was a signature at the bottom of the report that was stated it had been signed in protest. The Department reviewed the report, had some questions about some of the logic of the numbers on there, sent the report back to Customs saying that, one, it was not certified. Therefore, it was not valid.

And, two, with questions explaining some of the numbers that they did not seem to make sense.

Chairman PICKLE. Then the report was the same report, and the one that was finally signed was signed under protest?

Mr. NUMMY. The protest was the initial report. The report that was finally signed and sent over had certain items in it that were given than the initial and seemed to make more sense beyond what the initial report stated.

Chairman PICKLE. The final report had been changed and altered, and it was a different report than what——

Mr. NUMMY. Certain numbers on the report were different.

Chairman PICKLE. But it had been changed?

Mr. NUMMY. Correct.

Chairman PICKLE. Does that change mean it was sort of a clean-up job done?

Mr. NUMMY. I can tell you that my staff testifies the final report seemed to make far more sense than the initial report did.

Chairman PICKLE. Then your answer is that the final report looked more pleasing and it would take care of what Customs wanted to accomplish rather than what she wanted to?

Mr. NUMMY. I think what I conveyed is from an independent viewpoint it seemed to make more sense than the initial report did.

Chairman PICKLE. I find it hard to believe that you pass judgment on an accounting matter that you say it makes more sense to put it this way. It seems to me like you are accommodating Customs.

Mr. NUMMY. It is Customs' report. When Customs sends a report to the Department that it has certified, we are obligated to take that certification on its face.

Chairman PICKLE. How much longer do you think the task force will take to get this accounting matter in place and in force and effective?

Mr. NUMMY. It is my opinion, viewing the problems, viewing the process, it is my hope by the end of this fiscal year they can address the majority of the problems.

It is quite honestly my opinion that some of these problems will take several years to correct. I would further add that based upon my review, the problems have been mounting for several years. They are not particularly isolated.

They tend to be pervasive and that is a problem that is going to take more than a year to correct.

Chairman PICKLE. Well, we have got a task force. You say these problems are in existence and we have to do something about it. It may take several years.

Is Treasury requesting enough money to do something about this?

Mr. NUMMY. I can assure you that as long as I am in Treasury, then I will certainly ask that there is sufficient funding to solve this problem.

Yes, sir.

Chairman PICKLE. Was there enough money in the 1990 budget to take care of this?

Mr. NUMMY. Yes, sir.

Chairman PICKLE. This particular problem?

Mr. NUMMY. It is my understanding

Chairman PICKLE. Can you tell us how much was requested to take care of the problem, try to correct it?

Mr. NUMMY. It has not been appropriated yet.

Chairman PICKLE. You say yes, you understand it has been. Then you must know if there was an increase, and if so, how much of an increase.

Mr. NUMMY. I will be glad to provide that to you for the record. I don't have a specific number.

Chairman PICKLE. Of course we want that.

[The information follows:]

SUFFICIENT FUNDING TO SATISFY ACCOUNTING PROBLEMS

The FY 1990 Customs Service "Salaries and Expenses" budget request has, within the base, enough funding to address the existing accounting and financial management problems of the Service. No additional resources were requested in FY 1990 over FY 1989 specifically. However, a commitment in FY 1989 of approximately $1,000,000 was made to address the specific accounting and financial management issues. This increased level of effort is proposed to continue in FY 1990.

Chairman PICKLE. I find it rather difficult that you suggest we are going to take care of this, we are going to get enough money to resolve this problem and then you have no idea whether it was included in the budget or not.

Mr. NUMMY. It is my understanding there is sufficient resources in the fiscal year 1990 budget to resolve this problem.

Chairman PICKLE. Will you furnish that to the committee?

Mr. NUMMY. Yes, sir, I will be glad to.

Chairman PICKLE. Mr. Schulze.

Mr. SCHULZE. Mr. Nummy, I don't mean to belittle you, but I don't know you. How long have you been Acting Assistant Secretary to the Treasury?

Mr. NUMMY. Approximately 2 months.

Mr. SCHULZE. Are you just moving in with the new Administration or have you been with Treasury?

Mr. NUMMY. I am moving in with the new administration.

Mr. SCHULZE. Tell me your background.

Mr. NUMMY. I am a certified public accountant. I have been acting in positions related to management for about the last 12 years.

Mr. SCHULZE. Mr. Mok, you have a financial background, CPA?

Mr. MOK. Sir, I have an undergraduate degree in accounting and a master's degree in accounting.

I am a certified internal auditor.

Mr. SMOKOVICH. I have a bachelor's degree in accounting and a master's degree.

Mr. SCHULZE. So we have a fair amount of expertise in the area of accounting and what should be done.

I have got to tell you, Mr. Nummy, your statement saying Customs' problem areas include general data integrity, the ability to produce accurate and reconcilable external and internal reports, reconciliation between general ledger and subsidiary accounts and—what else is there?

Mr. NUMMY. The problems are pervasive.

Mr. SCHULZE. Pervasive?

This sounds like a disaster. I guess you aren't in a position to say a couple of months ago, a couple of weeks ago I came in and somebody told me about this. But I understand your predecessor had been notified by the young lady who testified here of this situation.

Was any of that information passed to you or was that swept under the rug and you were not informed?

Mr. NUMMY. I never had a conversation about Ms. Gibbs, no.

Mr. SCHULZE. No report was given to you? The reason I am asking you this is that I guess that shows the level of concern at Treasury which concerns me.

I have to be very candid with you, gentlemen. We discussed at length whether to have the witnesses today sworn. I think we are probably going to give you another opportunity to come back here at which time we may very well do that.

So I say that so that you will answer accordingly. I just think this is an abomination.

Treasury would allow it to go on when the Comptroller was aware of it and the inspector general was aware of it and not to step in is just—is beyond my comprehension.

Well, Mr. Nummy, you say there were hundreds of cases, or you have hundreds of cases ongoing right now and so they normally would not tell you until two weeks ago about this?

Is that correct?

Mr. NUMMY. There are innumerable, in the hundreds——

Mr. SCHULZE. Would you provide for the committee those that are of greater dollar value? I guess we have got some where people have run off to the $100 or $200 million or $1.6 billion or something. Just provide us with those that are of greater dollar value so that I can again judge the seriousness with which this is viewed.

If there are 40 or 30 of greater importance, that is marvelous.

Which of these were brought to your attention 2 weeks ago. When the chairman asked you, you said we have hundreds of these, and that it would be normal for them not to bring this to my attention.

Mr. NUMMY. If you are referring to matters under investigation, all investigations are handled by the Inspector General, and I would have no reason to know the details of those.

Mr. SCHULZE. Why was it brought to your attention two weeks ago?

Mr. NUMMY. Because it is a matter of the ongoing process at Customs as I have had a chance to focus on the——

Mr. SCHULZE. If you will provide for the committee a list of those, bigger dollars that are really more important.

Mr. NUMMY. Ongoing investigations, I am not in a position to do that, sir.

Mr. SCHULZE. You can do it by case A, B, and C. You don't have to give us the names and specifics. Just inform the committee in generalities so that we understand—understand what I am getting at. If you say there are not enough of higher value, then I say you are running a sloppy ship.

When you say there are 30 that are more important, then I say that is reasonable. I want to know whether you are being reasonable or whether you are playing games.

[The information follows:]

J.J. PICKLE, TEXAS, CHAIRMAN
SUBCOMMITTEE ON OVERSIGHT

BERYL ANTHONY, JR., ARKANSAS
RONNIE G. FLIPPO, ALABAMA
BYRON L. DORGAN, NORTH DAKOTA
HAROLD FORD, TENNESSEE
CHARLES B. RANGEL, NEW YORK
ANDY JACOBS, JR., INDIANA

DICK SCHULZE, PENNSYLVANIA
RAYMOND J. MCGRATH, NEW YORK
ROD CHANDLER, WASHINGTON
E. CLAY SHAW, JR., FLORIDA

Ex Officio:
Dan ROSTENKOWSKI, ILLINOIS
BILL ARCHER, TEXAS

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, DC 20515

SUBCOMMITTEE ON OVERSIGHT
May 22, 1989

DAN ROSTENKOWSKI, ILLINOIS, CHAIRMAN
COMMITTEE ON WAYS AND MEANS

ROBERT J. LEONARD, CHIEF COUNSEL
M. KENNETH BOWLER, STAFF DIRECTOR
BETH GUNTZ VANCE, SUBCOMMITTEE STAFF DIRECTOR

A.L. SINGLETON, MINORITY CHIEF OF STAFF
MICHAEL A. SUPERATA, COUNSEL TO THE MINORITY

Mr. David M. Nummy
Deputy Assistant Secretary for
Departmental Finance and Management
Department of the Treasury
Washington, D.C. 20220

Dear Mr. Nummy:

I am writing to follow-up on two requests for information made at the April 17, 1989 Oversight Subcommittee hearing on poor accounting practices and internal controls within the U.S. Customs Service.

First, thank you for your letter in response to my question on when Customs would be ending the practice of "netting" Forfeiture Fund expenses. I understand, however, that your target estimate of June 1, 1989 is overly optimistic. Please make arrangements to have my staff briefed periodically on your progress towards the elimination of netting by the appropriate Treasury or Customs individuals involved with the project, with the first briefing no later than June 1, 1989. Also, please provide a final copy of your May 2, 1989 letter for inclusion in the printed hearing record as soon as possible.

Second, I asked you at the hearing to provide, for the record, a list of other ongoing investigations involving dollar values greater than the investigation into alleged year-end overspending by Customs in FY 1988. As you may recall, my concern was that significant investigations of the Customs Service were not being brought to your personal attention promptly. Specifically, I was dismayed at your lack of knowledge of the significant allegations made by Linda Gibbs. Please provide such a list as soon as possible for investigations in progress as of April 17, 1989, by the Treasury IG or your office.

Thank you for your prompt response to requests made at the April hearing, and for your continued attention to the management problems within the U.S. Customs Service. If you have any questions regarding this matter, please contact Christopher Smith, Ways and Means Minority Staff at 225-4021.

Sincerely,

Dick Schulze
Vice-Chair, Subcommittee
on Oversight

DEPARTMENT OF THE TREASURY
WASHINGTON

June 2, 1989

ASSISTANT SECRETARY

Dear Mr. Schulze:

I am writing in response to your letter of May 22, 1989 requesting additional information concerning the U.S. Customs Service Forfeiture Fund and a listing of ongoing investigative activity within the Treasury Department.

The Customs Service has been diligently working towards changing its Forfeiture Fund accounting procedures so as to eliminate the practice of "netting" revenues and expenses prior to recording fund transactions. New procedures have been developed and were in fact implemented as of June 1; all Forfeiture Fund revenues and expenditures are now being recorded directly in the fund. Thus, financial reports on Forfeiture Fund activity will now provide more meaningful and useful information. If your staff wants to be briefed on Customs' new procedures, please have them contact my office and I will be happy to make the necessary arrangements.

With regards to ongoing investigative activity within the Department, we did describe such activity in one of the "Committee Inserts" furnished to the Subcommittee when we submitted our corrections to the transcript of the April 17, 1989 testimony. A copy of my May 2, 1989 letter to you concerning the "netting" practice described above was also included in our submission. For ease of reference, I have enclosed a copy of the insert describing the Department's investigative activity.

Thank you for your continued interest and assistance in resolving the Customs Service's financial management problems. Please be assured that these problems will continue to receive high priority treatment from the Department until they are resolved.

Sincerely,

David M. Nummy
Acting Assistant Secretary
of the Treasury (Management)

The Honorable Dick Schulze
Ranking Republican Member
Subcommittee on Oversight
Committee on Ways and Means
Washington, D.C. 20515

Enclosure

Response to Investigative Activity at Treasury

For fiscal year 1988 the Office of the Inspector General reported the following activity:

| | |
|---|---|
| Number of Audits Completed | 268 |
| Recoveries and Restitutions | $501.7 million |
| Savings and Avoidance of Unnecessary Expenditures | $20.8 million |
| Administrative Monetary Penalties | $501,000 |
| Allegations of Fraud, Waste, or Abuse Received | 2,778 |
| Number of Investigations Completed | 2,735 |
| Investigative Recoveries | $3.7 million |
| Successful Prosecutions | 373 |
| Administrative Sanctions (Personnel Actions, Suspensions, and Debarments) | 285 |

Further, during the first two months of my tenure at Treasury, the Office of the Inspector General reported the following significant activity to me:

| | |
|---|---|
| Fraud Investigation | $6 million (Over a five year period 1984-1988) |
| Solicitation of Murder | $10,000 |
| Disclosed Information | $337,000 |
| Sexual Assault | No Monetary Value |
| Audit with long-term savings | $80 million |
| Audit with cost recoveries | $458,000 |

I would also like to clarify some misunderstandings regarding the embezzlement cases discussed. While I do not dispute the embezzlements occurred, it is important to note that the losses to the U.S. Customs Service are not as significant as presented during the Hearing. As of April 6, 1989 of the $3,444,300.69 embezzled in Chicago all but $25,806.20 has been recovered. Further, as of April 14, 1989 $64,015 has been recovered from the approximately $840,000 embezzled at Los Angeles.

Mr. SCHULZE. Are you familiar with the netting practice used for the Customs forfeiture fund, Mr. Nummy?

Mr. NUMMY. Yes, sir.

Mr. SCHULZE. Can you explain to us why it is problematic?

Mr. NUMMY. As I understand, Customs is suffering under conflicting legislation for some amount of time. In order to meet the requirements of our legislation, they determined that reporting transactions on a——

Mr. SCHULZE. Can you tell us what conflicting legislation?

I would like you to be fairly specific.

Mr. NUMMY. There was a fund that was set up in 1987 under the drug bill of that year, both which created separate funds. There was an appropriation limitation placed on the amount of expenditures that could be spent out of that fund which was not sufficient to cover the costs of the operations it was intended to provide.

Mr. SCHULZE. Pause right there. You say that the amount that was brought in with the fund was not sufficient to cover the cost?

Mr. NUMMY. The appropriation was not sufficient.

Mr. SCHULZE. The appropriation limitation was to withdraw from the fund, wasn't it?

Mr. NUMMY. Correct.

Mr. SCHULZE. It was supposed to be the so-called profit from the fund and not necessarily just to manage it; is that correct?

Mr. NUMMY. That is the case today, yes, sir. Most of these issues have been clarified by passage of the drug bill last year.

Mr. SCHULZE. There was conflicting legislation, but that didn't end when we passed the current drug bill?

Mr. NUMMY. No. The drug bill passed in November and it did clear up all of these problems

Mr. SCHULZE. Why do we now have a problem with netting?

Mr. NUMMY. It is an accounting procedure. We should not be having netting at the current time.

Mr. SCHULZE. I guess my question is, why do we? I agree, everybody agrees that the message that was sent, they were told, you were aware of it, everybody in Treasury was aware of it, why is it going on today?

Mr. NUMMY. If it is going on today, it is my understanding they are in the process of ending that practice.

Mr. SCHULZE. You are telling me right now it is not going on today?

Mr. NUMMY. I am telling you it is my understanding they are in the process of ending that practice.

Mr. SCHULZE. Then it is going on today?

Mr. NUMMY. I do not——

Mr. SCHULZE. Mr. Nummy, you are overseeing them. We are not. That is what we are trying to find out. All I want to know is is it going on or isn't it?

Mr. NUMMY. Sir, I am over there, I am overseeing it.

Mr. SCHULZE. Send us a letter then and tell us whether it is going on or whether it has stopped.

Mr. NUMMY. I will be delighted to do that.

[The following was subsequently received:]

DEPARTMENT OF THE TREASURY
WASHINGTON

ASSISTANT SECRETARY

May 2, 1989

Dear Mr. Schulze:

During the course of the April 17, 1989 hearing before your Subcommittee, which addressed accounting controls in the U.S. Customs Service collection process and forfeiture program, the Subcommittee expressed concern over the continued practice of "netting" expenses against sales proceeds before recording the net proceeds into Customs' Forfeiture Fund. Please be assured that Customs is in the process of eliminating this "netting" practice and establishing procedures that will conform with the Comptroller General's accounting principles. The Customs Service has informed my office that these new procedures will be in place as soon as possible, and has set a target implementation date of June 1, 1989. My office will work with Customs' personnel during the implementation period to ensure that satisfactory accounting practices and controls are established for the Forfeiture Fund. I will keep your office fully informed of the progress being made during this transition period.

We look forward to working with the Subcommittee to resolve Customs' financial management problems. Please contact me if additional information is required.

Sincerely,

David M. Nummy
Acting Assistant Secretary
of the Treasury (Management)

The Honorable Dick Schulze
Ranking Republican Member
Subcommittee on Oversight
Committee on Ways and Means
Washington, D.C. 20515

Mr. SCHULZE. Fine. Thank you.

I have no further questions.

Chairman PICKLE. Mr. Anthony.

Mr. ANTHONY. Thank you, Mr. Chairman.

I would like to try to better understand this definition of the plug, and see if I can better understand what has been occurring here.

I assume you are familiar with the phrase "plug" that was used earlier by Mr. Watts of the GAO?

Mr. NUMMY. You are referring to the collections issue?

Mr. ANTHONY. Yes.

Mr. NUMMY. Yes, sir, I am.

Mr. ANTHONY. I guess I would just like to start off with a broad question. That is, why is there a $57 million discrepancy that has been unreconciled as of today?

Mr. NUMMY. I think I am going to have to defer to Mr. Smokovich here.

Mr. SMOKOVICH. Thank you, sir.

There are a couple of numbers that have been talked about today. There is the $54 million number, which is described as accountability held at the Customs Office. As I understand that, we have the type of situation that was described earlier where monies come in at the cash register. The person makes an adding machine tape or the system makes an adding machine tape; and the Customs Office is in the process of getting ready to make a bank deposit. That number gets put on their reports when they, in fact, do not make this bank deposit or they are not able to.

The reasons behind that are some of the things I think you had discussed here today. There is another number out there, though, that I think is important and hasn't been discussed today.

But it has to do with this whole problem——

Mr. ANTHONY. Let me interrupt you. If you would pull that microphone a little bit closer.

Mr. SMOKOVICH. Sure.

There is another number out there, though, that also has to do with internal controls. Presently the Customs Service has been given credit by the banking system. That means they have actually been able to get their money to the bank. But they haven't been able to report it to the central Treasury.

So, in one sense you have a situation where they are saying they may have potentially lost money on their accounting reports to the Treasury and, on the other hand, they have money that they actually may not have booked in their accounting system. That number is $69 million.

Mr. ANTHONY. Would you just go into a little bit more detail there? Because I am with you part of the way, but I don't want to get lost.

Mr. SMOKOVICH. Good. Let's stay with the $69 million number. I will try to give you an understanding of what happens when the Customs Office makes a deposit at the bank.

The Treasury gets reports through the Federal Reserve and through our cash concentrators which basically tell us how much money the Customs Service has collected. For example, they are collecting around $16 billion a year right now.

The Treasury Department knows that on a monthly basis and on a daily basis, as a matter of fact.

Mr. ANTHONY. You are satisfied that you are getting an accurate number?

Mr. SMOKOVICH. We are satisfied that we are getting numbers that are like 99.9-some percent accurate in terms of the money being put in the bank and then actually being reported to us by the Customs Service for credit to a revolving fund or appropriated fund, whatever the nature of the fund might be.

Mr. ANTHONY. You multiply 99.9 percent times $16 billion and you don't have——

Mr. SMOKOVICH. Statistically they look good, but when you get to the integrity issues, the questions you are talking about, you have different types of concerns.

So I don't want to give you a statistical number that I would be satisfied with as the accountant for the total government.

Mr. ANTHONY. Let me tell you how I look at it as a layman. I look at it as a layman that you have $54 million which belongs to the taxpayers that has been collected and hasn't been deposited. I just want to know where it is.

Mr. SMOKOVICH. That is the way we would have to look at it at the Treasury and the honest answer is no one knows, sir. We do not.

Mr. ANTHONY. See, when you tell me that you don't know honestly where $54 million is floating around, and I go back home and hear criticism of the Federal Government, I have a real hard time deflecting that criticism.

Mr. SMOKOVICH. So do I. Said another way, though, we are not sure that the Customs Service has, in fact, lost the money, when our reports are telling us they, in fact, have been given credit by the banking system for money they haven't reported to us.

Fundamentally, the issue here is how good is their control and how good ought it be?

Mr. ANTHONY. Are you satisfied with their control?

Mr. SMOKOVICH. No, sir.

Mr. ANTHONY. And you are willing to force them to try to make some savings or make some changes to have better internal controls?

Mr. SMOKOVICH. Much like Sam Mok, my office—and there are several offices that are involved here—has been working with the Customs Service. The major thing we try to do is provide banking collection services to agencies.

Mr. ANTHONY. What do you think Customs is doing wrong? Where could the changes be made?

Mr. SMOKOVICH. I think Mr. Dorgan hit on it when he was speaking.

Mr. ANTHONY. Send them back to freshman class 101?

Mr. SMOKOVICH. If you lose it there, you are going to lose it, sir. You have to start there.

Mr. ANTHONY. Let's start there.

What would you recommend Customs do that they are not now doing?

Mr. SMOKOVICH. I don't want to say take accounting 101, but fundamentally they have to know——

Mr. ANTHONY. Maybe training. Mr. Shaw got into training and Mr. Watts got into training. So that is what 101 is—education and training is part of it.

Mr. SMOKOVICH. People have to understand that adding machine tape represents money. If you allow one individual to handle that, you have violated some basic internal controls features.

Mr. ANTHONY. So you put another person in, so one person doesn't totally control this process.

Mr. SMOKOVICH. Or you put a system in. One of the things the Customs Service has done with us is use a credit card that takes the money out of an individual's hands.

Mr. ANTHONY. What about outlawing cash, requiring money orders or certified checks or credit cards? What if we just eliminated the ability to use cash?

Mr. SMOKOVICH. Cash is always a problem. It is a problem in the bank. It is a problem in the government. A lot of things we try to do are aimed just at that without actually——

Mr. ANTHONY. Would we be making a mistake if we tried to outlaw cash? Would you create more problems than you solve?

Mr. SMOKOVICH. I think every Congressman and every Senator would get a few letters.

Mr. ANTHONY. Would we get enough letters that we would not want to do it?

Mr. SMOKOVICH. Not today, I don't think. Checks, the credit card, using lock boxes, using persons who are experts at financial control. We have provided a lot of options.

Mr. ANTHONY. What about the software with the computer? Are there any suggestions there you could make to Customs so they could more quickly reconcile collections against deposits and not have the time delay that occurrs—I guess this is the Chicago case where they were doing everything they thought was correct, and it was the courier who was taking the money.

Mr. SMOKOVICH. In listening to that situation, and I have no idea how difficult it would be to do—it would be very nice if that deposit ticket they were talking about, the three-part form, if it were generated automatically by some part of their system.

The fact that an individual gets an opportunity to post that thing, so to speak, and then gets another opportunity if there is no one supervising it to change it——

Mr. ANTHONY. Is your department responsible for the 140 manhours which occur every week to manually go through these figures, or is that someplace else in Treasury?

Mr. SMOKOVICH. I didn't fully understand that statement by the GAO. I can tell you what we are responsible for. We run a nationwide system involving the Federal Reserve, several hundred commercial banks who are in the business of taking up deposits for Government agencies, and what we do with that is we provide accounting control for ourselves, the Treasury, and we provide information back to those agencies to allow them to audit whether or not they have gotten credit for their collections or to determine whether or not they have, in fact, reported them right from their many field offices.

Mr. ANTHONY. Let me close—I yield to the chairman.

Chairman PICKLE. I have got to leave the committee for just a minute. Let me ask you a question, Mr. Nummy.

This subcomittee, Mr. Nummy, had requested information from the Internal Revenue Service on the impact of the President's recommendation to cut certain areas in the budget by 1.1 percent.

Now we were told by the Internal Revenue Service they sent their recommendations on to Treasury for approval on April 12. This is the 17th.

What is the status of that report? Where is it?

Mr. NUMMY. I checked on that before I came over here this morning. Their numbers are being evaluated by our Office of Tax Analysis, which is the group of individuals who sort of have the final authority on all tax estimations.

As I understand it, they are working very hard to try to provide the number. I have urged them to provide it, and they hope that they can have it out within the next day or so.

Chairman PICKLE. We need that information on this committee. The Appropriations Committee is going to meet tomorrow.

When are we going to get that information?

Mr. NUMMY. I will go back as soon as this hearing is over and do what I can to provide it to you, sir.

[The information follows:]

IMPACT OF THE PRESIDENT'S RECOMMENDED IRS BUDGET CUTS

The Treasury is currently working with OMB to determine whether a negative revenue impact can be avoided by further reprogrammings among appropriation accounts.

Chairman PICKLE. Can you tell me how much would be cut from the IRS budget?

Mr. NUMMY. How much will be cut, sir?

Chairman PICKLE. Yes.

Mr. NUMMY. Through the supplemental?

Chairman PICKLE. Yes, sir.

Mr. NUMMY. Approximately $22 million.

Chairman PICKLE. Twenty-two. All right.

How much of that cut has a direct revenue impact on the IRS? How much of a revenue loss will it amount to?

Mr. NUMMY. That is indeed the issue we are talking about, what the revenue loss would be. That is what the Office of Tax Analysis is trying to determine for us at this moment.

Chairman PICKLE. We have requested information from the IRS. We in turn have asked you to give some information that we want to put in our appendices. We did that back on April 4. We haven't got that information yet.

I am going to ask you just as a matter of information, since the Appropriations is going to meet tomorrow and I have jurisdiction of this committee, I expect that information, the budget figures and your estimate, to be sent to our office by tomorrow.

Mr. NUMMY. I will do whatever I possibly can to provide that. I am very anxious to provide that to you, sir.

Chairman PICKLE. If you can't do that, how can Appropriations pass judgment when you put it under your umbrella and nurse it and we never know what you are doing or when you are going to do it until the last hour plus one?

Mr. NUMMY. I couldn't disagree with you on that.

Mr. ANTHONY. Thank you, Mr. Chairman.

Mr. Nummy, you may want to refer this line of questioning back to Mr. Smokovich, but I am going to back up and start over again because I am not so sure that I follow you.

I have here a series of statements of accountability which start from October 1, 1987, are on a monthly basis, and go through February 1989. On each one of these forms it shows the collections, deposits, and then it has this undeposited collections, which is the $53,545,999.69 that I referred to earlier.

I guess I would like to start back over because Mr. Smokovich indicated that the banking system does not indicate that there is uncollected revenues.

Other testimony has indicated that this is a madeup number called a plug or called something else. I don't know what you call it, but it is a number that is just put in on a month-to-month basis and only fluctuates to make the account balance.

So I guess I would like to go back and see if you and I are talking off the same sheet of paper about exactly what is the makeup of that $53 million-plus.

Mr. SMOKOVICH. What we know about that number is that the Customs Service is basically saying that at some point they believe they have taken cash or checks under their control and sometime before they had deposited the moneys to a bank, to a Federal Reserve Bank, they have lost control.

What that number does is acknowledges that they were given a dollar by the public and somewhere between the time they received it and the time they would have deposited it, it appears—I use this word—it appears that they may have lost the money.

That is why we call it accountability. As a collection officer, they are accountable for determining whether or not there was money. When they actually take the money they collect and deposit it to a bank on the report you are looking at, their accountability is reduced.

They have moved the accountability for the dollar from themselves to the bank. That is when the Treasury system and the Federal Reserve System and the banking system begin to take control of the money.

Mr. ANTHONY. So how do you account for the fluctuation from month to month in that undeposited collection column?

Mr. SMOKOVICH. That would be routine in this sense. If you have an operational peak and you collect a lot of money on a given day or a given night and you are unable to add up the totals, if you are unable to make up the deposit ticket and actually get it to the bank, what that number is saying is I have got this much money locked up in my vault or in a safe which I haven't, as of the date of this report, gotten over to a bank.

So it will go up and down.

Mr. ANTHONY. Or it could be locked in the safe of some courier or some past employee?

Mr. SMOKOVICH. That is unfortunately correct.

Mr. ANTHONY. In other words, if I went and made a speech on the House Floor and said Customs has lost $54 million and it looks like it has been stolen, could Customs disprove that statement?

Mr. SMOKOVICH. That is the issue, can they?

Mr. ANTHONY. Can you?

Mr. SMOKOVICH. No, sir, I cannot.

Mr. ANTHONY. So I can go all over America and say Customs has lost $54 million of the taxpayers' money to fraud and theft and you can't disprove that?

Mr. SMOKOVICH. We would probably have to get a group of professional auditors——

Mr. ANTHONY. Doesn't that bother you a little bit?

Mr. SMOKOVICH. Yes, it does, sir.

Mr. ANTHONY. Does it bother you enough to make Customs change their internal accounting control systems to make sure that line becomes a constant line?

Mr. SMOKOVICH. I don't——

Mr. ANTHONY. Or are you satisfied enough other things are going on in Treasury that it doesn't bother you?

Mr. NUMMY. If I could respond, the Department of Treasury wants Customs to fix their problems. It is a big priority. I think we are——

Mr. ANTHONY. It is a big priority with you, Mr. Nummy?

Mr. NUMMY. Yes, sir.

Mr. ANTHONY. And your supervisors?

Mr. NUMMY. Yes, sir.

Mr. ANTHONY. Right to the top, Mr. Brady?

Mr. NUMMY. That includes the Secretary, yes, sir.

Mr. ANTHONY. You are very clear by making this statement that Customs needs to know Treasury wants this straightened out?

Mr. NUMMY. Customs is aware of that. I think what may be subject for debate is what is the appropriate approach to accomplish that?

Mr. ANTHONY. I guess we are listening to Mr. Schulze and to some other members of the committee and reading Linda Gibbs' testimony and hearing the responses back; I don't get that attitude. I don't get that impression.

See, I get the impression—we have had von Raab in here before. He and I have had a nice little go-around and he still hasn't given me all the information to prove he wasn't wrong yet. He has been at it a long time. He is still digging for it—but I must prove that I see a different attitude. This is interpretation, and this is the reason I am trying to get a clear statement on the record so that there will be no misunderstanding.

When I see von Raab testify at other hearings, and when I see other witnesses testify, I must tell you that this is one member who gets the attitude that while you might worry about these problems a little bit, it is just not something that you really care a whole lot about, and that maybe while we have you here as a witness, it is something you are a lot more concerned about, but this concern will pass and you will go on to frying bigger fish down at Treasury than this one.

If I am wrong in that interpretation, I wish you would correct me. I would be very surprised if you polled the members of this committee, and found that a lot of them didn't feel the same way.

Mr. NUMMY. If I could respond for myself, I view this as one of the top responsibilities in this job is to help Customs through this

period of time. It is not the only priority I have. It may not be the top priority I have, but I believe it is fair to say it is one of the top five priorities I have.

In terms of how to best solve that, that is probably where the real debate lies. What is the appropriate way to approach this? In my opinion, the most positive thing that is going on within Customs, which is now the case, as I understand it, is that we now have a Deputy Commissioner of Customs personally overseeing the operation.

I guess from my perspective, it is my opinion that in any organization, the amount of visibility that top management places on a problem tends to be the result of that the problem will be fixed.

So I guess I view my role as to do whatever I feel I can do at my level to help that problem get solved, to make sure that Customs places it as a correct priority and until I see that they are not able to solve it, to continue to let them solve the problem.

Mr. ANTHONY. That is very refreshing, and I appreciate your candid response because it does reassure me that this problem is at least within some of your top priorities. I will just close by reading something out of our briefing papers and see if you agree or disagree with the content of this statement.

This is Commissioner von Raab's response to GAO's report. He states:

> It was early in our ACS development effort that I made the conscious decision that successful implementation of ACS would require streamlined approaches rather than the traditional approaches to system development, implementation and documentation which I believe are unnecessarily cumbersome, bureaucratic and time consuming.

That is the type of attitude that I referred to or the statements that reflect an attitude that do not appear to be very cooperative in nature in terms of being receptive to suggestion unless that suggestion happened to be one that he had already known about and endorsed.

Mr. NUMMY. I think it might be fair to say that the problems being discussed today are the result of that attitude made at the outset.

Mr. ANTHONY. So reassure me one more time that you are willing to buck those type of attitudes and to work very hard overseeing Customs to make sure that they do what is necessary to try to answer this difficult question about where the $54 million went, because we will never find that out.

At least move that lien out so from now on we will be able to reconcile the collections and the deposits.

Mr. NUMMY. I will assure you I will do all within my ability and within the ability of our office to see that that is accomplished.

Mr. ANTHONY. You do that and I think you will have a very cooperative subcommittee to work with because that is really our bottom line. That is what we are trying to do.

Any other members of the committee seek recognition?

Mr. SCHULZE. Mr. Nummy, along that same line, you said you would try to help them out of this problem.

What if in this process you come across violations of the law? What would your attitude then be?

Mr. NUMMY. I would immediately report that to the inspector general.

Mr. SCHULZE. I thought the inspector general was going to testify, but I understand he is not, so I just have a couple of questions for Mr. Moody.

He thought he was going to get away.

Mr. MOODY. Almost.

Mr. SCHULZE. Mr. Moody, your office recently issued a report on whether Customs spent more funds than were actually appropriated in fiscal year 1988; is that correct?

Mr. MOODY. Yes, that is correct.

Mr. SCHULZE. You concluded that Customs was not in violation of the Anti-Deficiency Act, even though it had a $7.6 million negative balance.

How could that be the case?

Mr. MOODY. The legal interpretation as it relates to what constitutes a liability of the U.S. Government was the key element here. The general ledger showed a $7.6 million deficit. However, the purchase orders against which those obligations had been recorded were not delivered to the vendors during fiscal year 1988.

Mr. SCHULZE. Mr. Moody, were there over $7 million worth of purchase orders voided because of Ms. Gibbs' actions?

Mr. MOODY. I believe she did contribute to that.

Mr. SCHULZE. Were there over $7 million voided because of her actions?

Mr. MOODY. Approximately $19 million.

Mr. SCHULZE. Nineteen million.

So was it their intention to violate the law?

Mr. MOODY. Our interpretation and the opinion rendered in the report was the Customs Service attempted to obligate all of its appropriated funds at fiscal year end so no moneys would lapse.

In that process, they did record a deficit.

Mr. SCHULZE. Would you tell me your background? Are you an accountant? Are you a CPA?

Mr. MOODY. Yes, I am a CPA and I have a bachelor's degree with a major in accounting.

Mr. SCHULZE. Bachelor's degree in accounting from where?

Mr. MOODY. Shippensburg State College; and a master's degree from George Washington University.

Mr. SCHULZE. Are you proud of that kind of accounting?

Mr. MOODY. No, sir, I am not.

Mr. SCHULZE. You are the shepherd of the U.S. citizens' money. If you were at General Motors, would you say that is okay, boys?

Mr. MOODY. No, I wouldn't, and I didn't in the report.

Mr. SCHULZE. No, no. I really am astounded. Somewhere in the law, and I have asked the staff to find it, your obligation is not to Treasury. It is not to the Secretary. It is to the people of the United States.

Mr. MOODY. This matter was referred to and is with the assistant U.S. attorney for Washington right now. It is still under investigation.

Mr. SCHULZE. Customs issued $41.8 million in procurement orders on the last day of fiscal year 1988. Some orders were later cancelled and some postdated to avoid deficiency, but Customs did

get off on a technicality since the orders had not been mailed or delivered yet before the end of the fiscal year.

Doesn't $41.8 million worth of procurement on the last day of the fiscal year, doesn't that bother anybody in Treasury? Doesn't that raise a little red flag or something?

Mr. MOODY. It bothers the inspector general, yes, sir.

Mr. SCHULZE. What does he do about it?

Mr. MOODY. We go to the assistant U.S. attorney and ask him to consider prosecution.

Mr. SCHULZE. Who are we going to prosecute?

Mr. MOODY. It would be the responsible parties here, and that would have to be determined by the assistant U.S. attorney.

Mr. SCHULZE. I guess you can't speak to that because it is under investigation?

Mr. MOODY. It is an active investigation, yes, sir.

Mr. SCHULZE. You stated in your report, and I quote, "Custom management circumvented the existing systems of internal control to facilitate their year-end spending effort."

Would you please describe for me these internal control problems and who specifically in Customs acted to get around them?

Mr. MOODY. One of the problems was the adjustment of the computer calendar and clock. The $41.8 million in obligations were made on September 30 and October 1. However, on October 1, fiscal year 1988 obligations could not be entered into Custom's accounting system without showing them as having been made in fiscal year 1989. So, the computer clock and calendar were reset on October 1 to show it was still September 30, and then some of the transactions were entered.

Mr. SCHULZE. Somebody sort of defeated the computer controls in order to back date those orders?

Mr. MOODY. That is correct. That, too, is with the U.S. attorney. It is a possible violation of the Computer Security Act.

Mr. SCHULZE. Who would be responsible for that? Would it be the individual employee that put it in, whoever told them to, or would you be able to trace that back?

Mr. MOODY. Because of the current investigation, I am not at liberty to give names, but we do have affidavits from individuals who were party to that, yes.

Mr. SCHULZE. Have any changes been made to make sure this kind of spending spree doesn't happen again?

Mr. MOODY. We have recommended a number of things to the U.S. Customs Service as well as the Assistant Secretary for Enforcement to oversee and prevent this in the future. We have assurance from the Assistant Secretary that he and his office are personally monitoring monthly all procurement activity within the U.S. Customs Service.

Mr. SCHULZE. Mr. Inspector General, under Treasury comes a multitude of things.

Do any others have huge procurements, $10, $20, $30, $50 million the last day of the fiscal year?

Mr. MOODY. Let me say this to establish the basis for my answer, Congressman. Prior to Treasury, I was with the General Accounting Office for 17 years during which I audited many agencies. This

situation is endemic in the Government. Year-end spending has constantly been a problem.

Major agencies such as DOD and others, yes, they have engaged in such sizable year-end spending.

Mr. SCHULZE. OK. Right now we are talking about Treasury.

Isn't there some way that Treasury can solve this? When we start legislating solutions, you are not going to like them because it is going to add 10 yards of book work and accounting and all kinds of problems. You are going to say we need additional staff to do that.

Don't you think internally somehow Treasury should say this is wrong, this is not the way we should be doing business and stop it? Who has that authority?

Mr. MOODY. The Secretary of the Treasury.

Mr. SCHULZE. So we have got to say the Secretary is responsible for these last-minute spending sprees?

Mr. MOODY. The present Secretary and the prior Secretaries have advised all commissioners they are not to engage in this practice. The Office of Management and Budget reminds everyone not to engage in it, and the inspector general is asked by the Secretary to be watchful for these activities.

Mr. SCHULZE. Should we make it criminal?

Mr. MOODY. I think you are in a better position than I am to make that decision.

Mr. SCHULZE. The chairman asked me before you leave to ask the Treasury officials if you would possibly stay to listen to Customs' testimony and maybe we will have some followup questions.

Mr. ANTHONY. Mr. Shaw is recognized.

Mr. SHAW. Mr. Moody, does the inspector general have an occasion to audit or to examine contracts such as the Northrop contract under the forfeiture fund?

Mr. MOODY. We do contract audits, yes.

Mr. SHAW. Have you on that one?

Mr. MOODY. On the Northrop contract? We had considered it as part of our investigation, but because of the ongoing investigation by the assistant U.S. attorney in Texas, we were asked not to proceed on that. So we are waiting for the outcome of that investigation.

Mr. SHAW. Can you perform routine audits on such contracts without alleged criminal involvement.

Mr. MOODY. Yes, we do preaward pricing audits as well as closeout audits on contracts.

Mr. SHAW. Have you personally had an opportunity to review the contract between Customs and Northrop?

Mr. MOODY. Personally, I have not. We just today became a statutory inspector general. Prior to this time, we were administrative and most internal audits were handled by Customs' Office of Internal Affairs with us providing general oversight. Beginning today, we have more direct authority now to go in and do these things ourselves.

Mr. SHAW. By having this in a separate fund, I think that line of questioning was brought up by Mr. Schulze regarding the netting—that doesn't take it away from your jurisdiction?

Mr. MOODY. No.

Mr. SHAW. Mr. Smokovich, I want to go back just a moment with regard to the plugging issue. As I recall, the graph line that was drawn by the General Accounting Office, it showed actually improvement with regard to the figure until it got into April or March 1988 and then something terrible happened. It went way up, and then it seems to have leveled off again.

How far back does that figure of $50 some-million, $54 million, how far back does that go? Is that a cumulative figure?

Mr. SMOKOVICH. Yes.

Mr. SHAW. Is this like when you get your bank reconciliation going and you finally put 55 cents in because it is not worth 2 days of aggravation?

Mr. SMOKOVICH. Exactly.

Mr. SHAW. And that figure kind of stays in and you carry it with your balance from then on. That would be a cumulative figure. I guess that would go back how far?

Mr. SMOKOVICH. It would go back to the inception of the Customs Service theoretically. But I think most of that number goes back to that $39 million figure which has been on the books for, I think, 2 or 3 years.

What we have seen on the reports that come to us, the number is kind of hanging at around $54, $55 million, and it has been that way since last September.

Mr. SHAW. Mr. Anthony asked you a question which I thought was a very good question, and that was whether or not it would be correct to say that the Customs has really lost $50 some-million it can't account for.

Now what I want to know is over how many years? How long did it take you to get that? Does this go back to the 1950's, 1960's, 1970's?

Mr. SMOKOVICH. I would have to actually go back and look at data. Where we are aware of this kind of problem is in the context of the 1987, I believe, number that came into being when they were involved in consolidating some of their operations.

I don't know that the number hasn't been higher in the past, or lower, but fundamentally again we are talking about a 2- or 3-year bubble where we have uncertainty.

Mr. SHAW. If you go back to 1983 or 1984, those numbers were not consolidated?

Mr. SMOKOVICH. They may be different.

Mr. ANTHONY. Mr. Shaw, will you please yield?

Mr. SHAW. I will be glad to yield.

Mr. ANTHONY. I had asked that question of a previous witness—about how far it goes back—because I was trying to get some historical perspective on this problem.

A thought just occurred to me—what would be the difficulty if we just said we are going to forgive and just forget this figure? We are going to put it over there on another column, but starting next month, we are going to use new books and the new system, and we are going to see if we can reconcile collections against deposits on a month-to-month basis?

Would that be logical?

Mr. SMOKOVICH. It would be logical in this sense. We have a process in the Government if an accountable official receives money

and loses the money either because of accident or theft, they have to seek relief.

What would seem logical in this case, given the uncertainty, would be if the Customs Service, for example, said we have a situation here where it looks like we may need to seek relief, if we had a group of auditors go into there to try to ascertain what it is, is it bad bookkeeping or is it money that is at issue here, if money has in fact been lost, then it would be to seek relief and that would get it off the books.

If it is bad accounting, probably some kind of accounting adjustment would be the appropriate thing to do.

Mr. ANTHONY. Yield back.

Mr. SHAW. Mr. Nummy, you have said that the bad accounting procedures is among the top priorities that you have as Under Secretary.

Who is the person in Government who is directly responsible for overseeing the Customs' finances who this is his only concern? That is probably the person we ought to get in here and talk to.

Mr. NUMMY. Well, within Customs, the Comptroller has the chief responsibility for financial management.

Mr. SHAW. Outside of Customs, who is he responsible to?

Mr. NUMMY. That would be my office within Treasury.

Mr. SHAW. OK.

Who is the Comptroller?

Mr. NUMMY. For Customs?

Mr. SHAW. Yes.

Mr. NUMMY. William Riley.

Mr. SHAW. He is going to be with Mr. Lane on the next panel of witnesses?

Mr. NUMMY. That is correct.

Mr. SHAW. We will be able to talk to him then. Mr. Riley, is he like a comptroller is in a corporation? Does he have independence from the Commissioner?

Mr. NUMMY. He works for the Commissioner.

Mr. SHAW. You have got the Comptroller working for the Commissioner instead of working for the Treasury.

Don't you think that is a bit odd?

Mr. NUMMY. The Commissioner runs the U.S. Customs Service, and he is an employee of the U.S. Customs Service.

Mr. SHAW. Does a comptroller of a corporation work for the president?

Mr. NUMMY. Yes, sir.

Mr. SHAW. Or does he work more for the board of directors?

Mr. NUMMY. He generally works for the president.

Mr. SHAW. Doesn't he generally have more independence in most corporations?

Mr. NUMMY. Typically there are auditors within a corporation that report to the board.

Mr. SHAW. Doesn't that come under the Comptroller?

Mr. NUMMY. No, sir. That is an independent function.

Mr. SHAW. Is there an auditor within Customs?

Mr. NUMMY. Yes. There is an auditor staff. As of today, that staff has been transferred to the inspector general.

Mr. SHAW. That is because of the problems?

Mr. NUMMY. It is a result of the statutory Inspector General Act.

Mr. SHAW. Mr. Nummy, have you become involved in the inventory of the assets under the forfeiture fund?

Mr. NUMMY. No, sir, I have not.

Mr. SHAW. Who has, other than the inspector general?

Mr. NUMMY. That would be a Customs activity. I am not aware of anybody in my office who has been involved in that.

Mr. SHAW. Thank you.

Mr. ANTHONY. Thank you, Mr. Nummy, Mr. Smokovich, Mr. Mok, Mr. Moody. We look forward to working with you to see if we can solve this interesting dilemma we have been discussing.

Mr. NUMMY. Thank you.

Mr. ANTHONY. Our next witness will be the U.S. Customs Service. Michael H. Lane, Deputy Commissioner, accompanied by William F. Riley, Comptroller.

**STATEMENT OF MICHAEL H. LANE, DEPUTY COMMISSIONER, U.S. CUSTOMS SERVICE, ACCOMPANIED BY WILLIAM F. RILEY, COMPTROLLER**

Mr. ANTHONY. Mr. Lane, you are recognized. You may insert your full testimony for the record and summarize, if you would like. I would encourage you to try to get through your prepared oral testimony as quickly as possible because I think as you can see from previous panels there is an awful lot of interest in terms of questions.

We are pushing late into the day, but at the same time, I don't want to limit your ability to make sure you clearly respond to any of the statements that have previously been made.

You are recognized.

Mr. LANE. Thank you, Mr. Chairman.

With me today is William Riley, who is the Comptroller of the Customs Service.

There is an old Greek adage that realization is the first step in rehabilitation. I want to assure you and the members of the committee that the Customs Service does recognize that we have a problem in this area of financial controls.

We have got the message and we hope today to be able to persuade you that we are taking remedial action to correct these problems.

I also hope, Mr. Anthony, that we can answer your questions; that is, what were they doing over there? What was going on in Customs during this period?

I think that question is important to put in context the issues that we are talking about today. First of all, during this period, the Customs Service was collecting about $20 billion in revenue each year, and all of that was getting deposited in the Treasury.

We were processing over 300 million packages and 9 million entries on 400 billion dollars' worth of imported cargo and, at the same time, we had three major objectives that we were working on: First, to assist in the efforts to assure a drug-free America.

Customs is fighting a war on drugs and we believe we have developed and implemented a drug strategy that is unequaled in the Federal Government.

Second, to assist, to the extent possible, in reducing the nation's trade deficit and increasing national competitiveness by ensuring that no merchandise entries into the United States were in violation of U.S. trade laws, including the violation of intellectual property rights, and third, to be the most facilitative Customs Service in the world.

Efforts like "Day One," the McKensie study and our own invoice and Edifact products are leading us in that direction.

So I wanted to make those comments to put in context the serious problems that you have heard about today.

Mr. Chairman, we appreciate the opportunity to appear before you today. As you will recall, we appeared before your committee last year on September 27, 1988. We believe that hearing was very productive in assisting us to identify problems and develop solutions for many facets of our operations.

We have made improvements since then in classification uniformity, Fines, Penalties and Forfeitures, ACS selectivity, training, and commercial modernization to name a few.

We have also successfully implemented significant commercial initiatives over the past few months, including the harmonized system.

The Canadian Free Trade Agreement, the Mexican regime, the 30-day rules and the preclassification programs. We believe we have accomplished much since our last hearing.

Today's hearing is focusing on Customs' efforts in the collections area where Customs has historically had numerous problems. We have developed many initiatives to deal with the complexities and serious problems that have been identified over the past several years.

Your committee's emphasis in this important area is not only appropriate, but timely in that we are now in a position to fully report to you on the problems that we have identified and our proposed solutions.

The Customs Service has an exceptionally complex network of financial transactions. Of course, we have the standard appropriations accounting process that every agency deals with, such as payroll, contractual services, facilities and equipment.

Our appropriations accounting is probably more complicated than most agencies because we have personnel and facilities in over 300 locations in the United States and around the world.

We also have several other complexities such as specialized and extensive overtime, special currency rates and allowances for employees in foreign countries and for foreign nationals, high rates of travel and a high rate of operation and maintenance expenses for Customs equipment such as airplanes, vessels and cars.

However, the major complexities in Customs financial operation are in the area of collections.

The Customs Service collects funds 24-hours-a-day and 7-days-a-week. And in over 300 ports with numerous sublocations.

The collections range from a few dollars to multimillion dollar transactions. We collect tariff duties; countervailing duties; dumping duties; user fees, including user fees for other agencies; tonnage taxes; harbor maintenance tax; and excise taxes on behalf of other agencies, some on a deferred basis.

We also have several forms of reimbursements including reimbursable airports and reimbursable overtime; in addition, some ports are reimbursable only at certain thresholds.

We also have an extensive drawback program that provides for a suspense account of over one-half of a billion dollars. Customs also has an extensive fines, penalities, and forfeitures program with tens of thousands of collections totaling over $60 million annually.

To handle the forfeiture part of these transactions Customs has a forfeiture fund with a complex set of accounting procedures established by law. Customs also enters into asset sharing transactions with the proceeds of the forfeiture fund with State and local law enforcement agencies and other Federal agencies.

Each of these many components of the Customs financial operations has its own set of complexities and procedures. For example, in the area of duty collections there are over 14,000 classification breakouts, sliding scales for various countries, and a multitude of bilateral agreements that offset the rates of duties.

Further, a detailed laboratory analysis is often necessary to determine the proper classification breakout. Customs enforces a broad range of over 400 laws and various treaties and agreements.

During fiscal year 1988, the Customs Service collected $15.8 billion in duties, $874 million in miscellaneous fees and $812 million in internal revenue taxes. There were 108.1 million carriers and 356.7 million persons entering the United States.

Customs also made over 53,000 seizures with a domestic value of about $1.1 billion and some 19,000 seizures of narcotics and dangerous drugs with a value estimated at over $12.6 billion.

Given the scope of financial operations and the large number of locations, it is clear that any system that relies on human effort will provide some inconsistency and opportunities for fraud, waste, and abuse.

There are simply too many intricacies in our operations to expect otherwise. We have embarked on an extensive effort to automate, centralize, and modernize as many aspects of our operations as possible.

There are three basic components to our long-term strategy. The first phase was to centralize as many financial processing activities as possible to provide for many financial processing activities as possible to provide for more consistency and better control.

This was accomplished in 1985 with the establishment of the National Finance Center in Indianapolis; this transferred many responsibilities from the regional offices where we had identified numerous deficiencies.

The second is to automate each financial activity. Basic collection functions are now automated; last year we automated the fines, penalties, and forfeiture and billings procedures; this summer we will implement the antidumping/countervailing duty modules. Numerous other collections programs are in the design and development stage.

The third is to provide for consolidated payments in an electronic mode that will eliminate the need for paper checks or cash on an entry-by-entry basis. We already have over 40 percent of our payments made via statement processing and will provide the import-

ing community with improved procedures for electronic funds transfer this summer.

We are also one of the first Federal agencies to permit duty payments by credit card.

Our goal is to evolve to a totally modern, electronic collection process that not only reduces the human handling of money but also provides for automatic calculation of payments to and provides for analytical capability to identify potential duty cheaters and substantially reduces the opportunities to evade system controls.

We have made much progress on this goal but because of the complexities and volumes of Customs transactions this is a long-term project.

The Federal Managers' Financial Integrity Act [FMFIA] of 1982, clearly expressed congressional interest in detecting and preventing opportunities for fraud, waste, and abuse. The Customs Service has taken this very seriously and has been working to identify and resolve problems.

Customs has used two professional accounting firms, Price Waterhouse and Arthur Young & Co., to assist in identifying problems. Since our FMFIA reviews began in 1983, we have identified 157 deficiencies in our financial systems.

To date, we have corrected 131 deficiencies and are continuing to work on the remaining 26.

In addition to our formal annual FMFIA reviews, we have had several analyses and internal audits that have been exceptionally helpful in identifying problem areas. We also have been receiving advice and assistance from Price Waterhouse and have had reviews performed by the Government Accounting Office.

Our problems are well-known and well-documented and we are working hard to resolve them.

At this point, I will highlight some of the most serious problems we have had and explain our actions underway to resolve them.

I think they have been outlined sufficiently. We are very much concerned about this type of unfortunate criminal activity and have taken numerous actions to improve our internal controls to prevent reoccurrence.

We believe that automating, electronic funds transfer, and credit cards usages are the long-term solutions to these problems.

Tracking of antidumping duties and countervailing duties. We believe that Customs has not been collecting all the antidumping and countervailing duties required. This is because the system had historically been so cumbersome. Until recently, the Customs Service had a manual process of notifying field officers of these types of duties.

Notices were issued to all offices, but it is probable that notices were lost or misplaced resulting in inconsistent application of duties. Even if the field officer retained all notices, it is possible that entries were bypassed without review.

However, the automated commercial system [ACS] changed this in that we are able to establish criteria that would automatically flag entries with antidumping and countervailing duties.

The final refinement of our automated efforts in this area will be operational this summer. The new module will provide direct and

immediate access to all Department of Commerce decisions and will provide calculations to ensure consistency and accuracy.

Unreconcilable collection balances. Current automated commercial system [ACS]. capabilities do not permit a complete reconciliation of the differences between Customs reported deposits and applicable collections.

Consequently, to complete the Customs statement of accountability, we report a derived balance to identify the difference between Customs reported collection and deposits. This is unacceptable.

Our analysis indicates that the main causes for the reported differences are, first, the reporting of some ACS statement level processed collections/deposits in different months; second, summary level collection reports used to prepare the statement of accountability are not completely balanced and verified to daily collection details in ACS; and third, in resolved differences that were not properly reported as confirmed deposits for the periods prior to fiscal year 1985.

We are now implementing actions to resolve these reporting deficiencies.

Forfeiture fund accounting. The forfeiture fund was established to provide a mechanism for law enforcement agencies to take advantage of seized assets to assist in combatting drug smuggling efforts.

The laws and Federal regulations governing this fund have created an extremely complex set of procedures. Customs has developed extensive accounting controls to prevent fraud, waste, and abuse.

All requests must be approved by a Regional Commissioner, Assistant Commissioner or the Commissioner personally. In 1988, Customs deposits in the fund totaled $35.9 million; Customs expenditures totaled $8.2 million, and we provided $11.2 million to participating State and local agencies; $29.8 million was transferred to the Treasury General Fund.

Seized property program. The Government Accounting Office was helpful in identifying numerous problems with the Customs Service seized property program in 1984.

In response, Customs decided to contract to the private sector for property management services. Our implementation occurred as scheduled and we have several independent reports that have verified the success of this program. However, there have been recent allegations of fraud and waste in this program.

These allegations are being investigated by a U.S. attorney with complete cooperation from Customs. We will be able to report to you the full details once the investigation is completed.

ACS collection system deficiencies. Despite our extensive efforts in automation, problems still remain in the collection system. Since 1982, we have spent over $25 million on the development, implementation, and operation of this system.

The deficiencies are well-documented and we have detailed plans to continue to improve and enhance these systems.

Fines, penalties, and forfeitures. We suspected that field processing of FP&F cases was not uniformly adequate, however, we had no mechanism to check this.

By automating the entire FP&F process we identified over 13,000 delinquent/unresolved accounts. We established a special effort, Project 6000 to clear up the backlog. We resolved many of the aging cases and have allocated about 100 new employees to this function. We are continuing our effort to eliminate the backlog and prevent this situation from reoccurring.

I would now like to highlight some of the projects we are working on that will provide better management structures, programs, and controls in the future.

First, an emphasis on correcting deficiencies identified in reports issued by the Comptrollers office, Arthur Young & Co., Price Waterhouse, Customs Service Internal Audit, Treasury Department, and the Government Accounting Office.

Second, automation of several major financial related functions including, first, liquidated/refund redesign; second, automated clearinghouse; third, automated financial reconciliation; fourth, deposits and collections; fifth, ACS/lockbox interface; sixth, ACS/CAMIS reconciliation; seventh, ACS refund process; eighth, billing reports, and liquidation; ninth, debt, voucher processing. Several others are in the planning stages.

Third, a task force on collection activities to plan all future initiatives and ensure they are properly coordinated.

Fourth, study on drawback processes to identify needed automation and provide organizational and management recommendations.

Study of liquidation activities to determine what processing improvements can be made.

Fifth, establishment of a special staff for quality assurance reviews of specific revenue activities throughout the field to identify specific problem areas and necessary improvements; this will ensure field activities are in line with national policies and procedures.

Sixth, fines, penalties, and forfeitures program reviews in various districts to identify instances of nonconformance with national policy.

Mr. Chairman, we acknowledge problems we have had with our financial system.

We believe we have a sound long-term strategy and we are working diligently to not only improve our procedures but to modernize these activities and ensure that Customs has the most efficient procedures possible.

[The statement of Mr. Lane follows:]

Statement of Michael H. Lane, Deputy Commissioner, U.S. Customs Service

Mr. Chairman, thank you for the opportunity to appear before you today to provide a short opening statement and to answer your questions. As you will recall, we appeared before your Committee last year on September 27, 1988. We believe that hearing was very productive in assisting us to identify problems and develop solutions for many facets of our operations. We have made improvements since then in classification uniformity; fines, penalties, and forfeiture; ACS selectivity; training; and commercial programs modernization to name a few. We have also successfully implemented significant commercial initiatives over the past few months including the International Harmonized System, the Canadian Free Trade Agreement, the Mexican Regime Program, the 30-Day Ruling Program, and the Pre-classification Program. We believe we have accomplished much since our last hearing.

Today's hearing is focusing on Customs efforts in the collections area. This is an area where Customs has historically had numerous problems. We have developed many initiatives to deal with the complexities and serious problems that have been identified over the past several years. Your Committee's emphasis in this important area is not only appropriate but timely in that we are now in a position to fully report to you on the problems that we have identified and our proposed solutions.

CUSTOMS FINANCIAL ACTIVITIES

The Customs Service has an exceptionally complex network of financial transactions. Of course we have the standard appropriations accounting processes that every agency deals with such as payroll, contractual services, facilities, and equipment. Our appropriations accounting is probably more complicated than most agencies because we have personnel and facilities in over 300 locations in the United States and around the world. We also have several other complexities such as specialized and extensive overtime; special currency rates and allowances for employees in foreign countries and for foreign nationals; high rates of travel; and operation and maintenance expenses for Customs equipment such as airplanes, vessels, and cars. However, the major complexities in Customs financial operation are in area of revenue collection.

The Customs Service collects funds 24 hours a day and seven days a week and in over 300 ports with numerous sub-locations. The collections range from a few dollars to multi-million dollar transactions. We collect tariff duties; counterveiling duties; dumping duties; user fees, including user fees for other agencies; tonnage taxes; harbor maintenance tax; and excise taxes on behalf of other agencies, some on a deferred basis. We also have several forms of reimbursements including reimbursable airports and reimbursable overtime; in addition, some ports are reimbursable only at certain thresholds. We also have an extensive drawback program that provides for a suspense account of over a half billion dollars. Customs also has an extensive fines, penalties, and forfeitures program with tens of thousands of collections totaling over $60 million dollars annually. To handle the forfeiture part of these transactions Customs has a forfeiture fund with a complex set of accounting procedures established by law. Customs also enters into revenue sharing transactions with the proceeds of the forfeiture fund with state and local law enforcement agencies and other federal agencies.

Each of these many components of the Customs financial operations has its own set of complexities and procedures. For example, in the area of tariff duties there are over 14,000 classification breakouts, sliding scales for various countries, and a multitude of bilateral agreements that offset the rates of duties. Further, a detailed laboratory analysis is often necessary to determine the proper classification breakout. Customs enforces a broad range of over 400 laws and many treaties and agreements.

During FY 1988, the Customs Service collected $15.8 billion in duties, $874 million in miscellaneous fees and penalties and $812 million in internal revenue taxes. There were 108.1 million carriers and 356.7 million persons entering the United States. Customs also made over 53,000 seizures with a domestic value of about $1.1 billion and some 19,000 seizures of narcotics and dangerous drugs with a value estimated at totaling over $12.6 billion.

The scope and complexity of Customs financial responsibility is enormous and when coupled with our need for collections on a 24-hour/7-day a week basis, the task is indeed difficult.

LONG TERM PLAN

Given the scope of financial operations and the large number of locations, it is clear that any system that relies on human effort will provide some inconsistency and opportunities for fraud, waste, and abuse. There are simply too many intricacies in our operations to expect otherwise. We have embarked on an extensive effort to automate, centralize, and modernize as many aspects of the operations as possible. This is an extremely long and arduous process and we certainly must continue processing ongoing transactions while we evolve to our long-term strategy.

There are three basic components to our long-term strategy. The first phase was to centralize as many financial processing activities as possible to provide for more consistency and better control. This was accomplished in 1985 with the establishment of the National Finance Center in Indianapolis, Indiana; this transferred many responsibilities from the regional offices where we had identified numerous deficiencies.

The second part of the strategy is to automate each financial activity. Basic collection functions are now automated; last year we automated the fines, penalties, and forfeiture and billings procedures; this summer we will implement the anti-dumping/counterveiling duty modules. Numerous other collections programs are in the design and development stages.

The final part of the strategy is to provide for consolidated payments in an electronic mode that will eliminate the need for paper checks or cash on an entry-by-entry basis. We already have over 40% of our payments made via statement processing and will provide the importing/broker community with improved procedures for electronic fund transfer this summer. We are also one of the first federal agencies to permit duty payments by credit card.

Our basic goal is to evolve to a totally modern, electronic collection process that not only reduces the human handling of money but also provides for automatic calculation of payments to be made and provides for analytical capability to identify potential duty cheaters and substantially reduces the opportunities to evade system controls. We have made much progress on this goal but because of the complexities and volumes of Customs transactions this is a long-term project.

CURRENT PROBLEM AREAS

The Federal Managers' Financial Integrity Act of 1982 clearly expressed Congressional interest in detecting and preventing opportunities for fraud, waste, and abuse. The Customs Service has taken this very seriously and has been working to identify and resolve problems. Customs has used two professional accounting firms-Price Waterhouse and Company and Arthur Young and Company to assist in identifying problems. Since our FMFIA reviews began in 1983, we have identified 93 deficiencies in our financial systems. To date we have corrected 75 deficiencies and are continuing to work on the remaining 18.

In addition to our formal annual FMFIA reviews, we have had several analyses and internal audits that have been exceptionally helpful in identifying problem areas. We also have been receiving advice and assistance from Price Waterhouse and Company and have had reviews performed by the General Accounting Office. Our problems are well known and well documented and we are working hard to resolve them. At this point, I will highlight some of the most serious problems we have had and explain our actions to resolve them.

(1) EMBEZZLEMENT CASES. The Chicago District had 10 missing deposits totaling $3.3 million in checks and over $24,000 in cash during the period of about 2 months. It was allegedly stolen by an employee of a messenger service and we expect to recover all losses. Also, an employee in the Los Angeles district allegedly stole over $840,000 during the period of about 15 months. We are attempting to recover as much payment as possible.

We are very much concerned about this type of unfortunate criminal activity and have taken numerous actions to improve our internal controls to prevent reoccurrence. We do believe that automating, electronic funds transfer, and credit cards usages are the long-term solutions to these problems.

(2) TRACKING OF ANTI-DUMPING DUTIES AND COUNTERVEILING DUTIES. We believe that Customs has not been collecting all the anti-dumping and counterveiling duties required. This is because the system has historically been so cumbersome. Until recently, the Customs Service had a manual process of notifying field officers of these types of duties. Notices were issued to all offices, but it is probable that notices were lost or misplaced resulting in inconsistent application of duties. Even if the field officer retained all notices, it is possible that entries were bypassed without review.

However, the Automated Commercial System (ACS) changed this in that we are able to establish criteria that would automatically "flag" entries with anti-dumping and counterveiling duties. The final refinement of our automated efforts in this area will be operational this summer. The new module will provide direct and immediate access to all Department of Commerce decisions and will provide calculations to ensure consistency and accuracy.

(3) UNRECONCILABLE COLLECTION BALANCES. Current Automated Commercial System (ACS) capabilities do not permit a complete reconciliation of the differences between Customs reported deposits and applicable collections. Consequently, to complete the Customs statement of accountability, we report a derived balance to identify the difference between Customs reported collection and deposits. This is unacceptable.

Our analysis indicates that the main causes for the reported differences are (1) the reporting of some ACS statement processed collections/deposits in different months, (2) summary level collection reports used to prepare the statement of accountability are not completely balanced and verified to daily collection details in ACS, and (3) unresolved differences that were not properly reported as confirmed deposits for the periods prior to fiscal year 1985. We are implementing actions to resolve these reporting deficiencies and have already reconciled over $100 million in differences.

(4) FORFEITURE FUND ACCOUNTING. The Forfeiture Fund was established to provide a mechanism for law enforcement agencies to take advantage of seized assets to assist in combatting drug smuggling efforts. The laws and federal regulations governing this fund have created an extremely complex set of procedures. Customs has developed extensive accounting controls and processing procedures to prevent fraud, waste, and abuse. All requests must be approved by a Regional Commissioner, Assistant Commissioner or the Commissioner personally. In 1988, Customs deposits in the fund totalled $35.9 million; Customs expenditure totalled $8.2 million, and we provided $11.2 million to participating state and local agencies; $29.8 million was transferred to the Treasury General Fund.

(5) SEIZED PROPERTY PROGRAM. The General Accounting Office was helpful in identifying numerous problems with the Customs Service Seized Property Program in 1984. In response, Customs decided to contract to the private sector for property management services. Our implementation occurred as scheduled and we have several independent reports that have verified the success of this effort. However, there have been recent allegations of fraud and waste in the program. These allegations are being investigated by the U.S. Attorney with substantial support from Customs. We will be able to report to you the full details once the investigation is completed.

(6) ACS COLLECTION SYSTEM DEFICIENCIES. Despite our extensive efforts in automation, problems still remain in the collection system. Since 1982, we have spent over $25 million on the development, implementation, and operation of this system. The deficiencies are well documented and we have detailed plans to continue to improve and enhance these systems.

(7) FINES, PENALTIES, AND FORFEITURES. We suspected that field processing of FP&F cases was not uniformly adequate, however, we had no mechanism to check this. By automating the entire FP&F process we identified over 13,0000 delinquent/unresolved accounts. We established a special effort, "PROJECT 6000" to clear up the backlog. We resolved many of the aging cases and have allocated about 100 new employees to this function. We are continuing our effort to eliminate the backlog and prevent this situation from reoccurring.

ONGOING INITIATIVES

I would now like to highlight some of the projects we are working on that will provide better management structures, programs, and controls in the near future:

--Emphasis on correcting deficiencies identified in reports issued by the Comptrollers office, Arthur Young & Company, Price Waterhouse & Company, Customs Service Internal Audit, Treasury Department, and the General Accounting Office.

--Automation of several major financial related functions including (1) liquidated/refund redesign, (2) automated clearinghouse, (3) automated financial reconciliation, (4) deposits and collections, (5) ACS/Lockbox Interface, (6) ACS/CAMIS reconciliation, (7) ACS refund process, (8) billing, reports, & liquidation, (9) debit voucher processing. Several others are in the planning stages.

--Task force on collection activities to plan all future initiatives and insure they are properly coordinated; in addition a major study of the collection function and the roles/responsibilities of various Customs components is now underway.

--Study on Drawback processes to identify needed automation and provide organizational and management recommendations.

--Study of liquidation activities to determine what processing improvements can be made.

--Establishment of a special staff for quality assurance reviews of specific revenue activities throughout the field to identify specific problem areas and necessary improvements; this will ensure field activities are in line with national policies and procedures.

--Fines, penalties, and forfeitures program reviews in various districts to identify instances of non-conformance with national policy.

CONCLUSION

Mr. Chairman, we are not proud of all the problems we have had with our financial systems, but it is an extremely complex job. We believe we have a sound long-term strategy and we are working diligently to not only improve our procedures but to modernize these activities and ensure that Customs has the most efficient procedures possible. We believe that once our automation procedures are completed we will have one of the most sophisticated systems in the world.

Mr. ANTHONY. Thank you very much, Mr. Lane.

I don't think anybody on this committee is going to refute the fact that Congress loaded up the Customs with an awful lot of extra work over the last several years. We are proud of the fact that you have implemented a great deal of it with ease and expertise.

Unfortunately, we are zeroing in on a specific area which seems to be troublesome, and so far we have not been able to find a solution to it.

The mere fact that we are looking at some of the bad side of it, don't for a minute think we don't appreciate the hard work you do.

There was not a lot in your testimony concerning the statements of the fraud, of the thefts from the various cases that have been discussed in this committee. You have been in the audience, I take it?

Mr. LANE. Yes, sir.

Mr. ANTHONY. Is there anything that has been put on the record on any of those cases that you disagree with, or do you think that we have been given a fair interpretation of what has occurred in those instances?

Mr. LANE. I believe in those cases that there has been a fairly accurate representation of what has occurred.

Mr. ANTHONY. Would it be safe to say that the Customs Department has taken a very close look at the deficiencies which provided the opportunity for the criminal activity and have, hopefully, by now even implemented internal controls which would stop future fraud—or am I being too optimistic?

Mr. LANE. Well, given our past performance, I guess that that is a considerable expression of optimism. I would say, however, that we have in this case and now have a firm resolve to address these problems.

I think we have corrective measures underway to prevent this happening in the future.

Internal controls have been mentioned many times. Unfortunately, they are only one part of the problem. Treasury has pointed out weaknesses in our internal controls before.

I do believe that we have corrected those deficiencies. Our problems have come in that we have not monitored the improvements in the internal controls that we put in place. We are starting to do that much more diligently now. We have had teams out as recently as last week looking at the problems in LA and Chicago.

People in the NFC have gone out to find out if those internal controls are being carried out. I say yes, you can be fairly certain that internal controls are improved. Now I think you can be more certain that we are taking action to insure that the internal controls are being taken, are being carried out.

Mr. ANTHONY. Let me see if I can establish for the record what the magnitude of the problem has been over the last several years.

Do you have any data that you could give us today that would determine the number of cases of stolen duty at Customs in the last 8 years? If you don't have it with you today, could you submit it for the record?

Mr. LANE. Yes, sir.

There are more than the Los Angeles and Chicago cases, and we can provide that.

Mr. ANTHONY. Do you know of your own personal knowledge?

Mr. LANE. I know there have been other cases in Los Angeles other than the one that has been discussed here. I think there have been some at JFK. I am sure Mr. Riley knows more about them than what I do.

Mr. ANTHONY. Would you be prepared to answer that question, Mr. Riley, or do you need some time?

I am talking systemwide, I would like to know what the total is.

Mr. RILEY. I would like to be able to respond to you later on that.

Mr. ANTHONY. If you could, ascertain officially what that number would be.

Mr. RILEY. We will.

Mr. ANTHONY. We would like to have it placed in the record.

Possibly you would know how many investigations are currently being conducted at the moment involving stolen Customs duty?

If you don't know that——

Mr. LANE. No, sir; I don't know that.

Mr. ANTHONY. If you would provide that for the record.

Since you don't know the answer to one and two, you certainly don't know the answer to what the total magnitude of the loss is? If you could, when you take a look, indicate what the total magnitude of the loss is?

Mr. LANE. Yes, sir.

Mr. ANTHONY. Inasmuch as these other cases have been brought to our attention, I think it would be helpful if we knew what the total magnitude was systemwide.

We will look forward to you submitting that evidence for the record.

[The information follows:]

**RESPONSE TO OVERSIGHT SUBCOMMITTEE HEARING**

**NUMBERS AND MAGNITUDE OF LOSSES FROM FRAUD**

The attached paper provides detailed information to respond to the Subcommittee's questions of: how many fraud cases have occurred at Customs; how many cases are currently under investigation; and, what is the magnitude of loss from these cases. In summary, the answers are as follows.

| | |
|---|---|
| Closed cases: | 35 |
| Open cases: | 5 |
| Total losses: | $ 4,790,679.92 |

Note - Although not mentioned in the attached paper, approximately $3,400,000 of this amount has been recovered to date.

Number of Theft Cases of Duties or Embezzled Funds for the Past 8 years:

Northeast Region - 6

New York Region - 4

Southeast Region - 6

South Central Region - 1

Southwest Region - 0

Pacific Region - 8

North Central Region - 10

Total Cases - 35

Number of Cases Currently Open Investigating Theft of Duties or Embezzled Funds:

Northeast Region - 0

New York Region - 3

Southeast Region - 0

South Central Region - 0

Southwest Region - 0

Pacific Region - 2

North Central Region - 0

Total Cases - 5

Dollar Amounts of all Open and Closed Cases Regarding Theft of Duties or Embezzled Funds by Region:

| | | |
|---|---|---|
| Northeast Region | 1. | $35,836.01 |
| | 2. | 335.50 |
| | 3. | 300.00 |
| | 4. | 40.00 |
| | 5. | 1,587.55 |
| | 6. | Amount Unknown |
| Subtotal | | $38,099.06 |
| New York Region | 1. | $ 500.00 |
| | 2. | 100.00 |
| | 3. | 410.00 |
| | 4. | 7,000.00 |
| Subtotal | | 8,010.00 |

| | | |
|---|---|---|
| Southeast Region | 1. | $ 70,435.00 |
| | 2. | 4,000.00 |
| | 3. | 12,592.21 |
| | 4. | 156,800.00 |
| | 5. | 5,483.75 |
| | 6. | 180,000.00 |
| Subtotal | | $ 492,310.96 |
| South Central | 1. | $ 1,060.00 |
| Southwest Region | None | |
| Pacific Region | 1. | $ 840,000.00 |
| | 2. | 2,760.65 |
| | 3. | 16,698.00 |
| | 4. | 13,073.33 |
| | 5. | 415.00 |
| | 6. | 299.90 |
| | 7. | 600.00 |
| | 8. | 44.00 |
| Subtotal | | 873,890.88 |
| North Central Region | 1. | $ 1,773.74 |
| | 2. | 4,915.99 |
| | 3. | 142.00 |
| | 4. | 326.65 |
| | 5. | 60.00 |
| | 6. | 200.00 |
| | 7. | 1,500.00 |
| | 8. | 75.00 |
| | 9. | 20,337.29 |
| | 10. | 3,410,978.35 |
| Subtotal | | 3,440,309.02 |
| Total For All Regions - | | $ 4,790,679.92 |

Mr. ANTHONY. You are at the present time in charge of a financial system task force; is that correct?

Mr. LANE. Yes, sir.

Mr. ANTHONY. And I don't know, and maybe other members of the committee might know, but would you furnish us the markup of that particular task force and what their credentials are?

Do you happen to have that today? I wish you would share it with us.

Mr. LANE. Well, the——

Mr. ANTHONY. How many members are on the task force?

Mr. LANE. Probably over a dozen. The director of the task force is Rod McDonald.

He is new, the Acting Director of the Financial Management and Program Analysis Office. We have representatives on that group from the NFC, our automated commercial system, the Offices of Commercial Operations and Inspection and Control and the Offices of the Data Systems, Accounting, and Procurement.

Mr. ANTHONY. If you would, just furnish us the names and then the specific area in which they work so that we will know specifically who is working with you on that.

[The information follows:]

PICKLE SUBCOMMITTEE HEARINGS ON FINANCIAL SYSTEM PROBLEMS

RESPONSE TO QUESTION CONCERNING FINANCIAL TASK FORCE STAFFING

There is actually no single "task force" addressing the various financial system and other related problems in the Customs Service. Instead, there are several task forces, groups, and functional offices all working actively toward correction of the various deficiencies. These resources have been brought together under a project organization called "FMFIA Improvements" since most of the problems have been reported under the FMFIA process. This project is being directed by the Deputy Commissioner of Customs, Michael Lane, with day-to-day management provided by the Acting Director, Office of Financial Management and Program Analysis, Rod MacDonald.

The task force personnel and other staff have been organized around the four major groupings of deficiencies within the FMFIA project which are: Fund Control, Reconciliation, General Ledger (CAMIS) Improvements, and Revenue Accounting. The weekly FMFIA status reports which have been provided in response to another question from the subcommittee explain these sub-project groupings in more detail. The attached chart shows the numbers and types of personnel working on each of these areas. The names and backgrounds of the managers in each area are also provided.

There are a total of 141 staff, including Customs employees and contractors, actively working on Customs financial problems. Of the 13 managers serving in lead positions on this project, 11 have degrees in accounting, finance, or business administration. Of the 128 staff, there are 52 accountants or financial analysts, 27 accounting technicians, 24 systems analysts or programmers, and 25 other staff including representatives from the operational offices involved in this effort.

As indicated by these figures, the FMFIA improvement effort is heavily staffed by individuals with education and experience in accounting and finance. It should be noted that the project manager for this effort, Mr. MacDonald, was selected based on his managerial experience and proven abilities to organize and direct this project to a successful outcome. Given the voluminous documentation of Customs financial problems, the previously identified corrective actions, and the wealth of accounting and financial management experience on the project staff, strong leadership skills rather than an accounting background are the essential requirements for managing this project.

**FMFIA Project Staffing**

| | |
|---|---|
| Project Manager | Rod MacDonald<br>Acting Director, OFMPA<br>Mr. MacDonald has been detailed from his position as Director, Law Enforcement Systems Division, where he recently completed a project to correct significant problems in the Customs enforcement system, TECS II. |
| Project Support | Supports the Project Manager through review and analysis of the corrective actions. |
| Managers | Edward Matthews<br>Director, Accounting Programs Division<br>Mr. Matthews has a BS in Accounting and Finance with over 22 years of service in the federal government as an accountant.<br><br>John Poore<br>Director, Management Analysis and Systems Division<br>Mr. Poore has an undergraduate degree in Political Science and an MBA. He has served in a variety of management positions involving management analysis and internal control issues. |
| Staff | 9 Accountants (3 government, 6 contract)<br>2 Management Analysts |
| Fund Control | |
| Managers | Wayne Hamilton<br>Director, Budget Division<br>Mr. Hamilton has a BS in Business Administration with an emphasis in Accounting and Finance. He has 20 years of service with the federal government in financial management, budget, and accounting.<br><br>Chris Gaugler<br>Financial Analyst<br>Ms. Gaugler has an undergraduate degree in Education and a masters in Public Administration. She has over eight years of service in the federal government in financial management. |
| Staff | 6 budget analysts<br>4 financial officers from regional staff |

FMFIA Project Staffing

Reconciliation

Managers

Thomas Diaforli
Acting Director, National Finance Center
Mr. Diaforli has a BS in Accounting and is a CPA with extensive service in the federal government as an accountant and auditor, including service with the Inspector General of Treasury.

George Pappas
Chief, Operational Support Branch
Mr. Pappas has an undergraduate degree in Economics (accounting emphasis) and an MBA. He has over 18 years experience with the federal government in financial management.

Tom Garrison
Chief, Appropriations Branch
Mr. Garrision has BS in Accounting and is a CPA. He has 13 years of experience with the federal government as an accountant and auditor.

Staff

24 Accountants (14 government, 10 contract)
13 Accounting technicians
5 Other staff

General Ledger (CAMIS) Improvements

Managers

Ray Arnold
Director, Administrative Systems Division
Mr. Arnold has an AA in Business Management and has 27 years of experience in developing automated financial systems.

Jerry Petty
Mr. Petty is a senior systems accountant from the Accounting Programs Division assigned to the CAMIS Task Force to provide day-to-day management. He has 12 years of experience with government accounting systems and has 24 hours of college credits in accounting.

Andrea Wood
Ms. Wood is Chief of the Acquisition Planning and Development Branch in the Office of Logistics. She has been assigned to the CAMIS Task Force as the lead analyst for the general ledger redesign. Ms. Wood has a BA in Government Affairs and an MBA in finance.

FMFIA Project Staffing

| | |
|---|---|
| Staff | 5 Accountants (1 Customs, 4 contract)<br>3 Systems Analysts (2 Customs, 1 contract)<br>1 Procurement specialist<br>4 Full-time programmers (1 Customs, 3 contract)<br>7 Part-time contract programmers |

Revenue Accounting

| | |
|---|---|
| Managers | Robert Hamilton<br>Chief, Revenue Branch<br>Mr. Hamilton has a BS in Business Administration with a major in Accounting. He has 16 years of experience as an accountant with the Customs Service.<br><br>Thomas Banner<br>Director, Entry Systems Development Division<br>Mr. Banner directs the staff of import specialists in the Office of Commercial Operations providing oversight and quality assurance for collection and deposit procedures in the field. Mr. Banner has a BS in Business Administration and has over 10 years of experience as an import specialist including over two years with direct responsibility for the entry/collections area. |
| Staff | 4 Accountants<br>14 Accounting Technicians (10 Customs, 4 contract)<br>10 Analysts/Programmers (4 Customs, 6 contract)<br>15 Staff from operational offices (14 import specialists and 1 inspector)<br>2 Other staff |

Mr. ANTHONY. We would like to have some background on them so we will have some ability to judge their credentials.

Could you tell us briefly what you are currently working on?

What is the current assignment of the task force?

Mr. LANE. Prior to the establishment of that task force, I had an individual from the Comptroller's Office look at four of the major areas pointed out in the FMFIA report, the Price Waterhouse, the Arthur Young problems, the Government reports, the internal reports, all the reviews to find out the particular problems that we have, the scope of the problems.

This individual came up with four major areas. We have short- and long-range programs for dealing with these.

Those four areas are funds control, the general ledger who has to do with our Customs automated accounting management information system, revenue accounting and reconciliation. There is one other that takes in all the remaining specific areas that have been pointed out in those reports.

In addition to that, this group will be working very closely with the people in our Office of Data Systems and Automated Commercial Systems to improve the automated systems that are needed to really correct those problems. And over the past year, longer than that, over the past 1½ years since we have had an ACS and ADP steering committee, we have made one of our major priorities the fixing of our internal control and financial accounting systems.

These, I have to say frankly, we are taking a very low priority in Customs and we had a meeting with the Assistant and Regional Commissioners to decide where to put these things in the scheme of priorities.

Frankly, they have been lagging behind the operational requirements. Now we have them up on the front burner. In each quarter of this fiscal year, new improvements to those systems are coming on line.

Mr. ANTHONY. Explain to me just the general conduct of the task force. Do you sit in on the task force? Do you—since it reports directly to you, do you actually chair it, sit in on it——

Mr. LANE. Bill Riley oversees the day-to-day conduct of the task force along with Rod McDonald. On a weekly basis with Rod McDonald we have a reporting scheme on the major activities as well as the subsidiary activities.

We go over the short- and long-range activities. We have a timeframe and schedule for fixing all of the deficiencies identified. We meet on a monthly basis with Acting Assistant Secretary Nummy and his staff to report on the progress that we are making with each of those activities.

Mr. ANTHONY. I have a request from Chairman Pickle. He requests that you make that monthly progress report available to the subcommittee.

Mr. LANE. Yes, sir.

[Monthly progress reports are being supplied to the subcommittee.]

Mr. ANTHONY. If there is a problem with that, I will let you take it up with——

Mr. LANE. I don't have any reason not to do that. We provide Treasury with a copy of our report for them as well as give all of

our internal documentation on it. I think our problems are well documented inside and outside of Customs.

I don't think we will have any problem with that.

[The information follows:]

PICKLE SUBCOMMITTEE HEARING ON CUSTOMS FINANCIAL PROBLEMS

REQUEST FOR FMFIA PROJECT STATUS REPORTS

The members of the subcommittee requested copies of the monthly reports provided by Customs to the Acting Assistant Secretary (Management), Mr. Nummy. The reports to Mr. Nummy are essentially overviews of the FMFIA effort in Customs, but reference the detailed status reports which are delivered to Mr. Nummy's staff on a weekly basis.

**CUSTOMS FMFIA IMPROVEMENT PROGRAM**

**MONTHLY BRIEFING TO TREASURY - JUNE 6, 1989**

OVERALL STATUS

| | | |
|---|---|---|
| * FUND CONTROL | - | ON SCHEDULE FOR COMPLETION OF FY 1989 PROCEDURES, DIRECTIVES, ADP TASKS. |
| * RECONCILIATION | - | ON SCHEDULE FOR FY 1989 COMPLETION. SOME AREAS BEHIND INTERNAL SCHEDULES, BUT EXPECT TO CATCH UP. |
| * CAMIS IMPROVEMENTS | - | PROGRESS HAS BEEN SLOW WITH SOME TASKS LATE OR BEHIND SCHEDULE. WORKING ON IMPROVED COMMUNICATION BETWEEN THE TASK FORCE AND THE NFC/NLC. |
| * REVENUE ACCOUNTING | - | MAJOR IMPROVEMENT SINCE LAST REPORT. RESOLUTION OF "CHARGEBACKS" IN FULL OPERATION, ALTHOUGH SLIGHTLY BEHIND SCHEDULE FOR COMPLETION BY AUGUST 31. SPECIFICATIONS COMPLETED FOR MOST ACS MODIFICATIONS AND PROGRAMMING UNDERWAY ON SOME TRANSACTIONS. |
| * OTHER DEFICIENCIES | - | MOST ARE COMPLETED OR ON SCHEDULE. HOWEVER, PIMS IMPLEMENTATION IS NOW BEHIND SCHEDULE. |
| * OTHER ISSUES | - | INTERIM ACCOUNTING PROCEDURES FOR THE FORFEITURE FUND IMPLEMENTED JUNE 1-TO ELIMINATE "NETTING" PRACTICE. |

## FUND CONTROL STATUS

* CURRENT CAMIS FUND CONTROL MECHANISM WILL BE RE-ENABLED BY 6/30/89. TESTING STARTED 6/5.

* EIGHT CHAPTERS OF BUDGET EXECUTION MANUAL BEING REVIEWED BY FIELD. ADDITIONAL CHAPTERS BEING FINALIZED. HOWEVER, DELAYS IN REVIEW PROCESS WILL PREVENT ISSUANCE UNTIL 8/1/89.

  (NOTE - THIS WILL INCLUDE THE BUDGET EXECUTION BRANCH PROCEDURES WHICH WERE DUE 12/88)

* FORMAL ADMINISTRATIVE FUND CONTROL PROCEDURES (A-34) HAVE BEEN SUBMITTED TO DEPARTMENT FOR REVIEW, AFTER WHICH THEY WILL GO TO OMB.

* CONCEPTUAL DESIGN FOR LONG-TERM (FY 1991) FUND CONTROL SUB-SYSTEM HAS BEEN DELAYED WHILE KEY DESIGN ISSUES ARE BEING REVIEWED. COMPLETION EXPECTED BY JULY 15.

## RECONCILIATION STATUS

* AREAS COMPLETED:

  - CASH BALANCE (ACS/CAMIS/FMS)
  - ACCOUNTS PAYABLE
  - INTERAGENCY RECEIVABLES
  - SALARY ADVANCES

* AREAS ON SCHEDULE:

  - DAILY CASH (DUE 8/31)
  - USER FEE EXPENSES (DUE 6/ 30)
  - ACS/CAMIS INTERFACE (DUE 9/30):
    - COLLECTIONS COMPLETE, ADJUSTMENTS TO BE MADE SOON
    - RECEIVABLES IN PROGRESS
    - REFUNDS NOT YET STARTED
  - OTHER ACCOUNTS (DUE 9/30)

* AREAS LATE OR BEHIND

  - TRAVEL ADVANCES (DUE 6/30, EXPECTED BY 7/31)
  - IMPREST FUND (DUE 6/30, MAJOR PROBLEM AREA)
  - TPIS INTERFACE (DUE 4/30, EXPECT BY 6/30)

GENERAL LEDGER (CAMIS) IMPROVEMENTS

* 77 DEFICIENCIES IDENTIFIED:
  - 19 COMPLETED PRIOR TO TRACKING STARTED
  - 16 DUE IN FY 1989:
    - 2 LATE
    - 14 ON SCHEDULE
  - 29 DUE IN FY 1990 (MOSTLY FUND CONTROL)
  - 13 DUE IN FY 1991
* FY 1989 TASK PRIORITIES:
  - FY 1989 FUND CONTROL (DUE 7/1)
  - CONCEPTUAL DESIGN FOR FINANCIAL SYSTEMS (DUE 7/15)
  - COMPLETE CHART OF ACCOUNTS AND EXTERNAL REPORTS
  - PROVIDE INTERIM MANUAL PROCEDURES:
    - CONTINGENT LIABILITIES
    - PROPERTY CAPITALIZATION
    - RECEIVABLES VALUATION
    - INVESTED CAPITAL ACCOUNTS
    - REAL PROPERTY
  - AUTOMATED RECONCILATION (MAY BE DROPPED)
    - CLAS/CAMIS
    - CORE CAMIS
    - ARRS/CAMIS
  - CORRECTION REQUESTS FROM OTHER TASKS

REVENUE ACCOUNTING

* STATEMENT OF ACCOUNTABILITY

  - RECONCILIATION OF "CHARGEBACKS" NOW BEHIND SCHEDULE. OF THE ORIGINAL 764 ALC/MONTHS, 220 HAVE BEEN RESOLVED LEAVING A BALANCE OF 544 WHICH IS LESS THAN THE PROJECTION FOR COMPLETION BY 8/31.

  - CHANGES TO ACS TO SUPPORT A BALANCED STATEMENT OF ACCOUNTABILITY NOW UNDERWAY:

    - PROGRAMMING ALMOST COMPLETED ON CHANGES TO STATEMENT PROCESSING AND ON-LINE LINKING OF DEPOSITS TO COLLECTIONS.

    - SPECIFICATIONS FOR DAILY/MONTHLY RECONCILIATION REPORTS BEING FINALIZED THIS WEEK.

    - PLAN TO HAVE ON-LINE CHANGES DONE 8/1 AND REPORTS READY 9/1.

* ACS/CAMIS INTERFACE PROGRAMS

  - NO CHANGES SPECIFIED YET.

* FIELD EFFORTS

  - COMMERCIAL OPERATIONS INITIATING SURVEY OF COLLECTION OPERATIONS TO IMPROVE CASH PROCEDURES.

  - NFC VISITING FIELD SITES TO REVIEW COLLECTION AND DEPOSIT PROCEDURES.

OTHER DEFICIENCIES

* 12 "SECTION 2" DEFICIENCIES (NO CHANGE FROM LAST REPORT)
  - 5 COMPLETED
  - 4 ON SCHEDULE
  - 1 ON HOLD (UNEMPLOYMENT COMPENSATION)
  - 2 LATE (COMPLETION EXPECTED IN JUNE)

* 4 "SECTION 4" DEFICIENCIES
  - 2 ON SCHEDULE
  - 2 BEHIND
    - PIMS IMPLEMENTATION SCHEDULED FOR JUNE 30 IS IN JEOPARDY DUE TO:
      - PIMS/CAMIS PROBLEMS
      - PIMS/ARRS PROBLEMS
      - DELAYS IN CORRECTING INVENTORY DATA

Mr. ANTHONY. I would love to have asked this next question to the Commissioner. Inasmuch as he is not here—by the way, where is he?

Mr. LANE. In Europe at an Interpol meeting.

Mr. ANTHONY. Tell him to schedule his foreign trips a little better next time, would you?

Mr. LANE. Yes, sir.

Mr. ANTHONY. We would have loved to have had the pleasure of hearing him. It probably would make you feel a lot better, too.

Mr. LANE. I would love to be with him today.

Mr. ANTHONY. I had an opportunity in that previous hearing that you mentioned in your testimony to ask about Project 6000, especially about Washington International.

I assume you are continuing to work with us to provide us with the data on that so that we make some determination as to the proprietary in all of those contracts?

Mr. LANE. Yes, sir.

Mr. ANTHONY. Are you familiar with it?

Mr. LANE. Yes, I am familiar.

Mr. ANTHONY. You have continued to work on that?

Mr. LANE. Yes, sir. In which respect do you mean?

Mr. ANTHONY. Well, I have a whole line of questions. It made it appear it was a little bit more than a sweetheart deal.

I was trying to get some additional information back from you that would either prove it or disprove it. You were trying to disprove it, and I was trying to prove it.

Mr. LANE. OK.

Well, I don't know—I had thought that our review was completed and that we had satisfied ourselves that there were no sweetheart deals, there were no verified or confirmed instances of corruption or special treatment to any of the surety firms.

I think the allegations was made that we had provided to Washington International, perhaps, one other firm, some automated FP&F tapes that we would not provide to other sureties. That was never the case.

That tape has been available to all sureties. I think about four or five sureties and surety associations representatives are now getting them. It just so happened that the state of Washington International, their state of automation as well as another company that was getting it was more advanced than some of the other companies at that time.

Mr. ANTHONY. I don't want to spend a lot of time on that. That was kind of a pet project I was personally working on.

Mr. Riley, earlier this afternoon Ms. Linda Gibbs, an employee of yours, charged you attempted to pressure her into signing false financial statements last year. How do you respond to that?

Mr. RILEY. That is absolutely false, Mr. Anthony.

What Ms. Gibbs is referring to was the preparation and signature of the end-of-the-year SF-133's. At no time was Ms. Gibbs directed to sign those forms.

At no time was Ms. Gibbs told what to do or what not to include in those forms. She was merely told that it was her responsibility to prepare an accurate end-of-the-year statement.

Mr. ANTHONY. But the facts remain that as a result of the thrust of her testimony that there was an independent Justice Department investigation going on? Is there not some Justice Department investigation going on?

Mr. RILEY. I am unaware of a Justice Department investigation.

Mr. LANE. I don't believe there is a Justice Department investigation, although there may be. There is one, the Northrop—

Mr. ANTHONY. I thought the inspector general said the Justice Department was looking at it. Am I incorrect?

Mr. LANE. Northrop the Justice Department is looking at. The Special Counsel, independent counsel and the MSPB are looking at the Gibbs case.

Mr. RILEY. Part of the problem which you have had all afternoon, is to take things in the chronology in which they happened so that you have an allegation of end-of-the-year impropriety that took place September 30, October 1, October 3.

What Ms. Gibbs is talking about, the preparation and the signature of the SF-133's, is considerably later. That is November 30.

I would, however, point out to you that under no circumstances has Customs in any way retaliated against Ms. Gibbs for whistleblowing. Customs was not aware that she had gone to the inspector general.

She is, in fact, trying to obfuscate her complete incompetence with whistleblowing.

Mr. ANTHONY. Thank you.

I guess being a jury of one, we could determine from content and body language as to who we believe, you or Ms. Gibbs.

At the moment the needle is not pointing toward you, Mr. Riley.

Mr. RILEY. I understand that.

Mr. ANTHONY. I would just give you some unsolicited advice. I spent 10 years in a courtroom as a prosecuting attorney cross-examining witnesses and trying to convince a jury of my position.

I promise you, I never would take the testimony of somebody like Ms. Gibbs and try to blow it so easily by saying she was an incompetent employee and expect the world to fall down around your feet and totally dismiss what she said because at the moment she appears to be a very competent, credible witness, and it is going to take a lot more than just a statement to disprove the content of her statements.

I would strongly encourage you to place on the record any concrete evidence that you have in your personal possession which you think will clearly demonstrate to this committee that her testimony is false.

Mr. RILEY. I am not trying to dismiss her testimony. I am sorry if I gave you that impression. My response——

Mr. ANTHONY. According to what you just said, your statement was that she was trying—yes, that is exactly right. In other words, the way I interpreted your comment is she came in here to whistleblow to try to cover her charges of being an incompetent employee.

As operator back then, she has not been found to be an incompetent employee by a multitude of other employers. The guy that interviewed her, certainly did not lay that on the—we are not here at this hearing to argue the merits of this.

I am just, as I say for the record, trying to give you a piece of unsolicited advice in terms of how to make your case in front of this subcommittee.

Mr. LANE. Appreciate that.

Mr. ANTHONY. Because we are not going to just wholeheartedly dismiss her testimony. In fact, we are going to give her time the weight that it deserves until we see very clearly and convincingly that there may be evidence to the contrary.

So when you bring that forward, we will take a look at it and we will weigh it.

On the other side, when you have Treasury and your own internal working papers criticizing your internal procedures—I would much rather talk about what attitude is new and how good the attitude is at Customs to do this voluntarily without Treasury overseeing you and cracking the whip, nor forcing us to come into these types of hearings.

These are not pleasant things to get involved in when you have strong differences of opinion like this.

Mr. LANE. Mr. Anthony, we have Treasury's oversight on this. I would say in addition to all the things you have heard before about what Treasury is doing in this regard, the Deputy Secretary of the Treasury talked to me about this personally.

We reviewed all of the ongoing activities and problems in the Customs Service. What we concluded was the one area that he was dissatisfied with and thought needed our attention was this particular area of financial control. So we felt like we had it right from the the top.

We also know that the new Secretary has addressed this issue within the Customs Service, and that has been passed along to us.

We don't get that much attention from Treasury usually on the matters such as this. I don't think we could have a clearer message from the Department than getting it from the Secretary and the Deputy Secretary. And we are believers ourselves.

Mr. ANTHONY. I yield to Mr. Schulze.

Mr. SCHULZE. Thank you.

Let me say, Mr. Riley, I agree with what Mr. Anthony said, that your statement that Ms. Gibbs' testimony was an opportunity to obfuscate her complete incompetence sounded extremely defensive, offensive and it is totally unnecessary.

I am curious as to why you want to bring that out. Is there some reason?

It sounded very defensive.

Mr. RILEY. I have spent many, many hours, many, many weeks, probably many, many months on the Ms. Gibbs' performance issue just starting over 1 year ago now.

Mr. SCHULZE. Before you start, you want to tell me, as I asked her, will you tell me your background? Are you an accountant or CPA or MBA?

Mr. RILEY. No, sir, but may I explain how the office——

Mr. SCHULZE. None of these?

Mr. RILEY. May I explain how the Office of the Comptroller is structured because finance is only one——

Mr. SCHULZE. Just give me your background.

Mr. RILEY. I am not an accountant, I am not a CPA.

Mr. SCHULZE. And do you have an MBA?

Mr. RILEY. I have a master's degree, but it is not an MBA.

Mr. SCHULZE. Please go ahead.

Mr. RILEY. The office is structured into four components. Finance is only one of those components. For some reason when the office was established, they chose the title of Comptroller.

But a more familiar kind of title that you might relate to would be like administrator or management. So the financial part is only one quarter of my office.

Mr. SCHULZE. Fine.

You are talking about complete incompetence of someone who is a CPA and has an MBA. There were three reviews of her competence. The other two reviewers, the Director of Alcohol, Tobacco and Firearms, and the Treasury Review Board, found no reason for dismissal based on incompetence. The only one that did was Customs.

I am just—I was just sort of taken aback by the vehemence with which you put that forth. I am not an attorney. Let's pass that by.

Mr. Riley, let me ask you just one question. Do you know who changed the computer clock to back date those entries?

Mr. RILEY. Who actually made the change? No, sir, I do not.

Mr. SCHULZE. Do you know?

Mr. RILEY. No, I do not.

Mr. SCHULZE. Do you know who ordered them?

Mr. RILEY. I know who asked for it to be done. I don't know that he ordered it to be done.

Mr. SCHULZE. OK.

Gentlemen, I am disturbed by the allegations arising from the current grand jury allegations of the Northrop seized contract by the U.S. attorney in Texas regarding possible contract fraud.

I want to restate we do not wish to interfere with that investigation. But that contract is up for recompetition this year, and we cannot allow further mistakes in matching that program.

In light of this, in the interest of congressional oversight of the repetition process, I think Customs is sort of compelled at this time to answer some basic questions about the operation of this program.

Mr. Lane, what is the overall goal of the seized property program? Isn't it to make a profit on the seized assets?

Mr. LANE. Well, I think it improves the overall management of the seized assets that come into the possession of the Customs Service, to improve the efficiency of it.

Mr. SCHULZE. But not to make money?

Mr. LANE. We would be doing this whether we were——

Mr. SCHULZE. I was here when we put it in. I am asking Customs' view, and it is not to make a profit on that fund?

Mr. LANE. In my view, no.

Mr. SCHULZE. It was not. That was our goal. But Customs' view is not, that it should not make a profit?

Mr. LANE. I am not saying it should not make a profit. I am saying that in my view, that is not the goal.

Mr. SCHULZE. OK.

Would you characterize it as just saying getting the highest possible return to the Government?

Mr. LANE. Well, I would say that would be an objective of it, that we would want to get the highest possible return, yes, sir.

Mr. SCHULZE. How profitable has the sale of forfeiting assets been under the current contract arrangement?

Mr. LANE. I would have to ask Mr. Riley to give you those numbers.

Mr. RILEY. Last time our costs were $15.8 million, our revenues from sale were $11.5 million. We also have lost opportunities from the seized goods of about $6 million. That is goods or conveyances which were——

Mr. SCHULZE. You lost about $3 million?

Mr. RILEY. Yes, sir. But that includes all that we gave away in state and local sharing, asset sharing.

Mr. SCHULZE. How about the previous year?

Mr. RILEY. In fiscal year 1987, the total costs were $12.4 million, revenues were $11.4 million.

Mr. SCHULZE. We lost about $1 million.

How about 1986?

Mr. RILEY. I am sorry, sir. I don't have 1986 with me now.

Mr. SCHULZE. According to Northrop's figures, in 1986 they lost $2.3 million. In 1985, they lost $1 million.

My analysis of your fiscal year 1988 report shows a loss to the fund from the sale of conveyances and other property of about $1 million, sales proceeds of $4 million, minus costs in excess of sales proceeds of $4.9 million. Why is this fund losing so much money?

Mr. RILEY. Sir, we had under the zero-tolerance program last year the number of seizures which we had rose dramatically.

At that same time, we had a very high among of sharing with State and local law enforcement agencies, which reduces your profit back from the seized property program.

Mr. SCHULZE. Remember, when we put this program in we were not getting what we should for the seized assets.

The idea was to turn it over in a hurry. We are seizing assets, selling them at market value. Even if we were giving them away, I don't care what percentage of it, we can't do it and make money on it?

Mr. RILEY. Sir, the vast majority of seizures never reached disposition by sale. The vast majority of seizures are even truly——

Mr. SCHULZE. But the vast majority of seizures pay for the overhead. If they seize my car and they are wrong, when I go to Northrop to get it back I have to pay storage charges on that.

So the vast majority, even though they are turned back, they pay for it; is that correct?

Mr. RILEY. They pay a portion of the cost.

Mr. SCHULZE. The poor citizen, whether they are right or wrong, the citizen is paying for that. I don't think they should.

Mr. RILEY. One of the things in the new contract is a more aggressive sales or merchandising program.

Mr. SCHULZE. You are looking for that in the new contract?

Mr. LANE. Yes, sir.

Mr. SCHULZE. A more aggressive sales program. Well, the value of assets shared with State and local and Federal agencies and retained for Customs was how much in 1988?

Mr. RILEY. I can get it for you in just a moment, sir.

Mr. SCHULZE. The figures I have are $2.2 million shared with State and local, $8.6 million—$8.6 Federal agencies and $4 million retained by Customs.

Mr. RILEY. I have it on chart form, sir. That looks correct.

Mr. SCHULZE. You say that is correct.

If the current contract hadn't lost $8 million, that amount would have been available for sharing with State and local law enforcement agencies; wouldn't it?

Mr. LANE. Some of that probably would have been available for sharing with them.

A lot of times what we do with State and local, if we, if they are participating, we can yield the seizure of the asset, the money, the car, the truck to them immediately, and it doesn't have to get carried through the funds. We try to do that as much as we can. I think that——

Mr. SCHULZE. It is still hard for me to conceive this thing losing money. You are getting whatever you can get.

But it is an automobile, and I don't know, I don't think these fellows usually drive cheap, beat up automobiles.

Mr. LANE. That is not usually the case.

Mr. SCHULZE. Whatever it is, you have got to be able to get more from it than the cost of storage. And it is just hard to believe that you are losing money on this thing.

One other question.

The jump in cost of that contract from $12 to $17 million, I want to know what caused that dramatic jump of $5 million to Northrop, $5 million.

Mr. RILEY. A couple of things. One was the increased number of seizures under zero-tolerance that were not anticipated at the time the costs were negotiated with Northrop at the start of the year.

Mr. SCHULZE. Have they documented that, Mr. Riley?

I realize this is on a cost-plus basis, and I think there is a lot of room for hanky-panky with cost plus. But they have documented to your satisfaction that $5 million increase because of zero-tolerance?

Mr. RILEY. There are a couple of reasons. There is more than just zero-tolerance. Zero-tolerance was probably the major contributor to it.

Mr. SCHULZE. Has it been documented by area?

Zero-tolerance, $3 million, something else; $1 million, something else?

Mr. RILEY. I don't think that we have done it that way. We may be able to do that.

Mr. SCHULZE. Then tell me how you have done it?

Mr. RILEY. The increase in the number of seizures from zero-tolerance, the increase in asset sharing activity which has removed money that we could have, you know, taken away our recovery mechanism for and then a problem with late——

Mr. SCHULZE. That is hard for me to understand how you lose money on asset sharing.

Mr. RILEY. Because for asset sharing we waive all holding costs.

Mr. SCHULZE. Waive what?

Mr. RILEY. Holding costs.

Mr. SCHULZE. Yes. What do you mean you waive them?

Mr. RILEY. We don't charge the recipient of the asset the holding cost.

Mr. SCHULZE. In other words, Customs pays?

Mr. RILEY. We pay it.

Mr. SCHULZE. Is that a sound, sensible way to do it in?

Mr. LANE. No, sir, I guess that was a policy decision on our part to encourage State and locals to participate, to work with us. We have taken a very aggressive posture in sharing those revenues.

Mr. SCHULZE. Mr. Lane, what storage? If it is a yacht, it is a couple hundred a month or something like that?

Mr. LANE. The storage fees are high. There might be a problem with this contract, as you suspect. A U.S. attorney is looking at it. We are taking a look at this in the context of charges, costs, previous history, and taking these factors into consideration in developing the new contract. Unfortunately, the old contract was probably a few pages long. The new one is about that thick. The result, the reason for that is how much we have learned over the past 3 or 4 years of operating this thing.

Mr. SCHULZE. Well, how about the specific cases where Northrop accepted unrealistically low bids? I have some information that sales have been made with extremely unrealistic bids. In Los Angeles in 1987 Northrop accepted a bid of $6,000 for wearing apparel valued at $91,000. Customs had to absorb $8,000 in storage costs on that merchandise.

In another case Northrop accepted a bid of $1,400 for a lot of property valued at over $13,000. No wonder we are losing. There is no one in Customs that looks at this and says this is wrong, you have got to go over there and straighten this out. There is something wrong with this operation.

Mr. LANE. Yes, sir. We do have auditors that do that and I think the Defense Contract Audit Agency has looked at it. We had a precontract award review of this and if you will give us the specifics on each of those we will get back to you. I would say those sorts of things, plus some other things, are the kind of thing that are under investigation by U.S. attorney.

Mr. RILEY. Mr. Schulze, since you specifically gave a textile example, it is quite possible that there was a sale for export only.

Mr. SCHULZE. It was. It was. I am aware of that. But it was still extremely undervalued, whatever the circumstances were. That was the first question I asked. I said give me all the rationale. Certainly below cost is something, but that much below? There are all kinds of opportunities—I don't have to tell you—for sweetheart deals for getting rid of this stuff. The first question I asked the staff is are you looking into that and I would think that would be the first thing that you people would look into.

Mr. LANE. We have looked into those sorts of things, sir. We found out—our Office of Internal Affairs has found some problems with that. In fact, I think some people have been prosecuted on cases such as that.

Mr. SCHULZE. I have other questions on collection of countervailing duties and your accounting structure on that, but the hour is late and I am going to relinquish my questioning time. We will send those over, in the interest of time, and ask you to respond by mail.

[The information follows:]

J.J. PICKLE, TEXAS, CHAIRMAN
SUBCOMMITTEE ON OVERSIGHT

BERYL ANTHONY, JR., ARKANSAS
RONNIE G. FLIPPO, ALABAMA
BYRON L. DORGAN, NORTH DAKOTA
HAROLD FORD, TENNESSEE
CHARLES B. RANGEL, NEW YORK
ANDY JACOBS, JR., INDIANA

DICK SCHULZE, PENNSYLVANIA
RAYMOND J. McGRATH, NEW YORK
ROD CHANDLER, WASHINGTON
E. CLAY SHAW, JR., FLORIDA

Ex Officio
DAN ROSTENKOWSKI, ILLINOIS
BILL ARCHER, TEXAS

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, DC 20515

SUBCOMMITTEE ON OVERSIGHT

May 22, 1989

DAN ROSTENKOWSKI, ILLINOIS, CHAIRMAN
COMMITTEE ON WAYS AND MEANS

ROBERT J. LEONARD, CHIEF COUNSEL
M. KENNETH BOWLER, STAFF DIRECTOR
BETH KUNTZ VANCE, SUBCOMMITTEE STAFF DIRECTOR

A.L. SINGLETON, MINORITY CHIEF OF STAFF
MICHAEL A. SUPERATA, COUNSEL TO THE MINORITY

Mr. William von Raab
Commissioner
U.S. Customs Service
1301 Constitution Avenue, NW
Washington, D.C. 20229

Dear Commissioner von Raab:

I am writing to follow-up on two requests for information made at the April 17, 1989 Oversight Subcommittee hearing on poor accounting practices and internal controls within the U.S. Customs Service. As you know, Deputy Commissioner Mike Lane represented Customs at the hearing.

First, I submitted at the hearing a set of questions regarding your accounting practices for the collection and reporting of antidumping and countervailing duties. Your answers to these questions will be included in the final hearing record. As such, I appreciate your prompt response to my request.

Second, your Comptroller, William Riley, agreed to supply, for the record, evidence of Customs' auditing practices for the Northrop seized property contract. Please provide a listing, by report number and date, of all audits conducted by Customs of the seized property contract and program since 1985. The Subcommittee is particularly interested in knowing the extent of sampling of Northrops' cost claims, the specific number and dollar amount of all cost claims disallowed, independent storage cost comparisons that have been performed, and the extent of involvement of the Defense Contract Audit Agency and its audit findings. The listing should include this information.

Thank you for your prompt response to requests made at the April hearing, and for your renewed efforts to correct the serious financial management problems within the U.S. Customs Service. If you have any questions regarding this matter, please contact Christopher Smith, Ways and Means Minority Staff at 225-4021.

Sincerely,

Dick Schulze
Vice-Chair, Subcommittee
on Oversight

DS:cskh

THE COMMISSIONER OF CUSTOMS

WASHINGTON, D.C.

June 23, 1989

BUD-1-CM:F JRM

Dear Mr. Schulze:

Your letter of May 22, 1989, requested a response on two items from the April 17, 1989, hearing before the Oversight Subcommittee. The two items were accounting practices for the collection and reporting of antidumping and countervailing duties, and evidence of auditing practices for the Northrop seized property contract. Detailed responses for these items are enclosed.

I apologize for the delay in responding to your questions, but we have been pressed with a number of requests in this area. I hope that the enclosed information meets your needs.

Yours faithfully,

Acting Commissioner of Customs

The Honorable
Dick Schulze, Vice-Chair
Subcommittee on Oversight
Committee on Ways and Means
House of Representatives
Washington, D.C. 20515

Enclosures

ENCLOSURE I

CONGRESSMAN SHULTZE'S AD/CVD QUESTIONS
TO DEPUTY COMMISSIONER LANE

1. Has the Customs Service been able to provide the Copper & Brass Fabricators Council with this information since last August's hearings?

A. The Customs Service has provided the Copper & Brass Fabricator's Council with the data on brass sheet and strip from the 1988 Blue Line Report.

2. Can you describe for me the "Blue Line" System, and the role it plays in Customs efforts to anticipate which entries are likely to be AD/CVD related.

A. The "Blue-Line" Report is a manually generated report of AD/CVD duty collections. When an import specialist has determined that a specific entry is subject to an AD/CVD order, he underlines in blue ink an extra copy of the Customs entry form (CF 7501) and forwards the copy to Customs Headquarters where it is compiled into a report. The "Blue-Line" Report or the underlining of the CF 7501 play no part in identifying which entries should be assessed AD/CVD duties.

3. I would assume that the assigning of the "Entry-Type Code" is critical to Customs efforts to anticipate which entries are likely to be AD/CVD related. Who actually assigns the "Entry-Type Code"?

A. The person filing the entry summary is responsible for assigning the proper Entry-Type Code to it.

4. I can understand where instances may occur in which a broker honestly does not know what the proper or correct Entry-Type Code is. However, if the broker is intentionally committing fraud by not noting that a certain entry should be subject to an antidumping or countervailing duty, what internal tools does the Customs Service have to detect such fraud?

The Customs Service has several internal controls for verifying that the proper Entry Type Code is assigned to an entry summary. The first is permanent entry selectivity criteria in ACS that can be input at the request of the local import specialist. This criteria would require that all entries with specific Harmonized Tariff Numbers and Countries of Origin be routed to him or her for review. If an import specialist detects an entry filer failing to deposit the proper AD/CVD duties, the entry summary is rejected for correction. The second internal control is the

automatic random referral to import specialists of a percentage of all bypassed entries. The import specialists can take remedial action if he or she finds AD/CVD entries are being bypassed. Of course, with adequate selectivity criteria, an AD/CVD entry would never be bypassed.

5. Can you explain what I understand to be Customs ongoing project to automate the Blue-Line Report. To follow-up, will this reduce data entry errors? Secondly, will this enable you to provide line-item duty collection data?

A. The AD/CVD Module is essentially a database, which will be maintained by the Department of Commerce, of all active AD/CVD cases. The Module will do four things:

1. It will enable import specialists and ABI filers to call up case data at the push of a button. For example, do you want to know what the deposit rate is on brass sheet and strip from France, or whether bonding is permitted? The Module will contain that information.

2. Secondly, the Module will identify possible AD/CVD ABI entries, based on HTS number and country of origin, and even if reported as entry type 01, ensure that they are not bypassed.

3. Thirdly, the Module will verify the information presented to Customs. It will ensure that a valid case number is used, that if cash is required it is deposited, that the proper rate is used, and that liquidation of the entry is suspended.

4. Lastly, the data collected by the Module will provide much better statistics of AD/CVD collections than the current Blue-Line Report.

The Module will reduce data entry errors to the extent that the edits will catch obvious mistakes. The answer to your question on line item duty collection is that we already collect this data. This is the information collected from the CF 7501's and used to generate the Blue Line Report. We have recently provided tapes of this data for calendar year 1987 and 1988 to the Department of Commerce for analysis.

6. Mr. Lane, it appears to me that at this time, unfortunately, Customs does not have the ability to assure American businesses injured by foreign dumping and subsidization that all appropriate AD/CVD duties are being collected and accounted for.

-- Do you feel that this is due largely to the fact that entries are presently liquidated by entry and not by line?
-- What is Customs doing, and what can it do in the future, to assure U.S. industry that a vast majority, if not all, of AD/CVD duties which should find their way to the U.S. Treasury are, in fact, being accounted for and making it to the Treasury?

A. Let me answer your observation this way. As I noted in my answer to your second question, the Blue Line Report plays no role in the determination of whether AD/CVD duties apply to the entries. It is simply a report of that action taken after the fact.

The report did deteriorate over the years since it was first created in 1981. The reason the report deteriorated is because very few requests were received for data from it. Other than the queries from the Brass Sheet and Strip Fabricator's Council, the Customs Service received two queries in the last 12 months for data from the report. We understand the Department of Commerce doesn't receive very many more queries than we do. A private company, or a Government Agency, should not concentrate resources on a report in which no one is very interested.

When the Copper and Brass Fabricator's Council first asked for the Blue-Line data, we took a fresh look at the report and saw that the data collection and compilation procedures had major flaws. We corrected the flaws and attempted to reconstruct the 1987 data. The reconstruction was not as successful as we had hoped. We expect the 1988 report, which was recently completed, to be much more accurate than 1987. The 1989 report will be better than 1988. The point is that if we know someone is interested in the data, we will expend the resources to collect it, but we have to educate over 1,200 people to the new importance of the report.

The problem caused by the liquidation of entries as whole rather than by line creates reporting difficulties for AD/CVD entries with multiple categories of merchandise. The module will ease this problem somewhat because of the additional on line case data that will be available. The case data will provide the amount of the estimated antidumping or countervailing duties collected for each case. Adjustments to a case record will be made if the liquidation amount is different from the deposited amount.

The Customs Service is committed to the enforcement of AD/CVD proceedings. The Module, which has been in development for 3 years, and which will come to fruition this year, is evidence of that commitment. It is the biggest, and has the most complex programming, of any Module ever attempted by the Office of Automated Commercial Systems. I would like to emphasize, however, that the Module will not replace human judgment. The field import specialist will still have to determine the proper classification of the merchandise, and he will also have to determine whether the merchandise falling within this classification is subject to AD/CVD duties. Therefore, what the Customs Service can do most to enforce AD/CVD Duty cases is to have a highly trained and skilled workforce to take advantage of the capabilities the Module provides.

ENCLOSURE II

STORAGE COSTS REVIEW

The following reports and reviews were done by the SPD/OLM Audit staff during the FY86-88 period. The rationale for testing, etc. is provided.

External Reports:

DEFENSE CONTRACT AUDITING AGENCY

Under the contract, DCAA has monthly oversight on ALL costs. In addition, DCAA will be following up on an as-needed basis and on closeout review. A closeout review constitutes a full audit for the entire four years of the contract. Any costs found not to be reasonable, allowable or allocable at the time of interim audits or at final closeout will be disallowed, and those amounts will be recovered from the contractor if already paid; if not already paid, they will not be paid.

Already performed at SPD request, a limited review as seen below:

Audit Report on Evaluation of Incurred Costs for U.S.Customs Service's Seized Property Program Under Contract Tc 85-37 (Defense Contract Audit Agency) February 25, 1988
(Size of sample not known - storage costs not expressly reviewed although system for controls over these costs were reviewed.)

OLM Audit Reports

Review of Northrop Costs Accrued and Review of Northrop's Procurement Practices and Cost Overview, June 26, 1986.

One of the first reviews of the Northrop cost system over holding or storage costs, it tested 30 vendors highlighting problems noted by District and Internal Affairs input, over 150 transactions. This review recommended a disallowance of $24,999. The total sample size equaled 5.6% of costs at that point in time ($490,320 at report date.)

NOTE: SPD IS CUSTOMS SEIZED PROPERTY DIVISION
OLM IS CUSTOMS OFFICE OF LOGISTICS MANAGEMENT

OLM AUDIT REPORTS (Continued)

Audit of Questioned Costs, and Review of Northrop's Internal Controls, November 1986

A follow-up review of the June report, which also included additional testing of the holding costs system, tracing 220 items from Northrop's cost screen to original invoice. Sample size included over $550,000 worth of incurred holding costs during that period.

Northrop's Risk Management Program, May 12, 1987; holding costs relating to certain Adverse Incidents were reviewed; approximately 20 items were reviewed. No material weaknesses in the system were found.

Transmittal of Seized Property Audit Report on Review of the Former Miami District Supervisor's Allegations of Mismanagement and Irregularities on the Part of the Seized Property Contractor (Hinman Report - Over 50 transactions tested) - No material discrepancies related to holding costs were found.

Southwest Region Audit Report, May 31, 1988 - September 22, 1988 -

Over 175 transactions tested - in response to the allegations by the Southwest Regional Commissioner. Total costs tested: over $200,000 on appraised value of goods worth $2.3 million (1.4% of all inventory on hand during July 1988: some questions of loss and mismanagement arose, which were referred to Internal Affairs and are still pending.)

FY 1986 Option Year Technical Analyses: General Testing of Northrop costs by account; over 120 transaction summaries reviewed.

FY 1987 Option Year Technical Analyses: General Testing of Northrop costs by account. Over 130 transaction summaries reviewed, including reasonableness of holding costs incurred in relation to workload.

FY 1988 Option Year Cost and Technical Analyses: General Testing of Northrop costs by account to supporting documents; over 200 transaction summaries reviewed, including review of holding costs on the basis of workload incurred and reasonableness of costs.

OLM AUDIT REPORTS (Continued)

General Order Cost Proposal Analyses completed March 1987:

OLM Audit reviewed the General Order Cost Proposals, and on the basis of their recommmendation, the proposed approach which would have included five facilities, was reduced to two to limit costs.

FY 1989 Option Year Coat and Technical Analyses:

General Testing of Northrop costs by account; over 230 transaction summaries reviewed.

Special Reports/Studies done by OLM Audit:

Customs regularly reviews Northrop Audits on Costs Incurred by Subcontractors. As a result of these audits, Northrop has disallowed or received credits on a number of subcontractor costs, in some cases leading to subcontractor termination. For FY 86, there were 12 audits, for FY 87, 14 audits, for FY 88, there were 20 audits, and for FY 89 to date, there have been six audits.

General Correspondence on Specific Cases handled throughout the last few years - over 50 transactions tested in detail.

Special Reports for the Comptroller's Office on Revenue Tracking Done during November 1986 - February 1987 (Over 75 transactions tested over a period of months to determine if contractor's reconciliation process between expenses incurred and revenue collected was in effect. Cross-study done with NFC, which resulted in Excess Remissions report; this monthly report reconciles for the use of Customs and Northrop management differences between holding costs charged and those collected.)

NOTE: NFC IS CUSTOMS NATIONAL FINANCE CENTER

Chairman PICKLE. Mr. Shaw.

Mr. SHAW. Thank you, Mr. Chairman.

A few moments ago the other panel of witnesses confused the term Comptroller with internal auditor. Of course, there is a difference.

Mr. Riley, under the Northrop contract there are a certain amount of audits that are to be performed. Is that performed under your direction?

Mr. RILEY. We have internal—we have audits internal in the Seized Property Division. We also use the services of the Defense Contract Audit Agency on a regular basis.

Mr. SHAW. Now, under the Northrop contract let me read you from my hearing that was held in Miami, March 9, 1987. This is the hearing I referred to a few moments ago, in which in answer to a question that I posed being convened about the cost, automatic cost reimbursement or the cost-plus aspect of this contract, I asked the question:

"Is the more of the cost of holding the asset the more Northrop is being paid? Am I correct on that?"

Mr. Applegate, who was one of your officials down in the Miami area, answered and said:

> Not exactly. Part of our evaluation process, audit process is designed to make sure that the cost effectiveness is included and, therefore, if we perceive in our audit that Northrop is not being cost effective in acting to minimize costs, we will lower the percentage of their award fee so that the incentive is there for them to minimize profit.

That is a misprint. I think you meant to maximize. We know by hindsight there is no profit overall even though there may have been some on some separate sales. But overall there was not. That would come either from excessive cost or deficient sales price, or a combination of the above.

During this process what has been the award process for Northrop? In other words, what have they been paid to lose money?

Mr. RILEY. The award, Mr. Shaw, is based on the amount which is negotiated with Northrop at the start of the year so that even though, for example, the costs went up to $17 million last year, the Northrop award is based only on the $12 million figure, which was established at the beginning of the year with Northrop as an agreement between the parties of the estimated workload. So even though their workload went up, their award possibilities did not go up proportionately because it is based on that amount that was agreed to at the start of the year.

Mr. SHAW. Do you monitor and audit the actual costs? Now, Mr. Schulze, I will put this in proper case—Mr. Schulze went into the situation as to storage fees, as to how much you can charge a day for an expensive car and then lose money on it and how long you are holding it. Part of the problem was—and this is when we got back into the sharing of proceeds with State and local government.

I believe—if my memory is correct—that is the amendment I had put in the drug bill of 1986. I believe that is correct. So Mr. Schulze, I don't want you messing with our deal down in Florida on sharing costs.

But part of that was because—and the way I sold it was because of the efficiency of the forfeiture process as it relates to the Federal

Government. Since then, I believe we streamlined that and I believe we have even used the Florida model to assist us in streamlining that process.

We found in hearings back in the mid-eighties that these boats that were being taken from the druggies, that we would have been far better to have blown a hole in the bottom of them out at sea and allowed them to become a natural part of the seas and never brought them back in.

I indicated we would be better off doing that rather than going to the expense of towing them in and having the problems if we had to pay for a few of those rust buckets that would be fine. It would certainly be better than paying to dock them. How can you continuously give a company an award when you see you are continuously losing money on this process?

I would like to go one step further. I think Mr. Lane mentioned this was not really a profit motivator, but that is really not the testimony that we got down there in Florida earlier. We did expect to and, as a matter of fact, the people from Customs said we were going to start making a lot of money because of the Northrop contract and I think, if I am right, I think the Coast Guard started giving some of their stuff because this thing was sold so well. Am I not correct on that?

Mr. LANE. We handle some of the Coast Guard through our forfeiture fund.

I would say this, Mr. Shaw, a lot of things can happen. We can explain this better in our written response. There is counterfeit merchandise that we have to retain for a while and then it gets destroyed. It can't enter the economy in the United States.

Mr. SHAW. You don't have counterfeit Mercedes Benz.

Mr. LANE. There is storage, that sort of thing. Mr. Schulze says they drive expensive cars. Sometimes they do but a lot of people come in across the border driving junkers. You know from your own experience, which pushed us to some degree to get into a more efficient method of handling this, that the Miami River was stocked with very expensive ships, costly ships, very costly to store and those are a drain on it.

The planes have been gutted and a lot of times aren't worth much, but they are expensive to store. The boats have to be moved, all those sorts of things, and while it seems like we have a lot of Mercedes Benz and Cadillacs and high cost items, we have a lot of junk to take through there too, that has to be destroyed and there is really no value to the Government. It is a net loser.

Mr. SHAW. You talked about the fund having created an extremely—the Congress having the laws and the Federal regulation governing this fund—have created an extremely complex set of procedures. I think maybe this is like tax simplification. We didn't simplify them, but made them more complex.

Do you have any suggestions to make as to how we can take some of the complexities out of this?

Mr. LANE. I do believe that you have taken some of the complexities out of it. I think it is less complex now. We probably do have some ideas that we could submit in that regard and I think that we know from our experience of 3 or 4 years with Northrop that there

are ways that we can do this process more efficiently and we have a determination to do that.

Mr. SHAW. Well, I would want to add at this point, however, that the 1988 tax bill, drug bill, I believe, did come up with some——

Mr. LANE. That is right.

Mr. RILEY. That simplified our accounting immensely.

Mr. SHAW. I won't take you up on that comment.

Have you gone and tested some of the figures that have been submitted from Northrup as cost? Have you gone out and shopped the prices they are paying for dockage? Have you gone out and shopped the prices they are paying for automobile storage?

Mr. RILEY. I personally have not. The auditors in——

Mr. SHAW. People under you?

Mr. RILEY. Yes. Auditors in the Seized Property Division do that regularly. They sample. They take sample transactions and go on and audit them, follow them all the way through the process. Then there is also a process where we send auditors, if there is an allegation or if somebody alerts us to something that seems way out of line, we can do that and we have done that. The contract costs are regularly audited by the Defense Contract Audit Agency.

Mr. SHAW. Could you supply to this committee the evidence of the sampling that has gone on? Give us—I assume this is probably in some form somewhere—give us a list of the sampling that has been done, how it was done?

Mr. RILEY. We will be glad to do that if we have the files available. The majority of the information is with the U.S. attorney now. If the information that you want is not with him, we will provide it to you as soon as possible.

[See p. 170 for information.]

Mr. SHAW. That is fine. Thank you.

Thank you, Mr. Chairman.

Chairman PICKLE. Mr. Anthony, the Chair recognizes you again.

Mr. ANTHONY. I just have one other question.

Mr. Riley, awhile ago you and Mr. Schulze were in a dialog about who rolled the clock back and he asked you if you knew and you said yes, you knew. But then he didn't ask you who it was. If there is nothing illegal about it, or if it does not compromise any ongoing situation, I would like to know.

Mr. RILEY. I would have to ask counsel that question, sir, because that is part of the inspector general's investigation.

Mr. ANTHONY. Counsel, could you consult?

Mr. SHAW. Mr. Anthony, while they are consulting, I would like to say the sharing of forfeitures was enacted under the State and local Comprehensive Crime Control Act of 1984, not 1986.

I accomplished this along with Larry Smith, also of Florida.

Mr. ANTHONY. Has counsel reached a decision?

Mr. RILEY. I think they are changing their mind.

Mr. LANE. Sir, it is part of the inpsector general's investigation and counsel is suggesting we not answer the question. If we determine later that we can, we will provide it in writing to you or call your office.

Mr. ANTHONY. Could you tell me what the current status of that person is, whether they are currently working full time? Are they suspended or what is the current employment status?

Mr. LANE. Working full time in the current position, in the position he was in at the time.

Mr. ANTHONY. With no changes?

Mr. LANE. Right. No change.

Mr. ANTHONY. Now, Ms. Gibbs, what is she doing?

Mr. LANE. She is working——

Mr. ANTHONY. Is she doing the same thing she was doing before?

Mr. LANE. No, sir.

Mr. ANTHONY. When will she have full time——

Mr. LANE. She has been officially removed from her position in the Senior Executive Service as Director of the Financial Management and Program Analysis and the case is now under, I guess, some sort of process in the Special Counsel, MSPB. If she is to win that case, I suppose she could get her job back.

Mr. ANTHONY. OK. Back to Mr. Riley.

You, without naming the individual, have personal knowledge as to the person who made the recommendation that the computer be rolled back, the date be changed; is that correct?

Mr. RILEY. He told me that it was going to be done, yes.

Mr. ANTHONY. So this is a conversation you had with this undisclosed individual, at the moment?

Mr. RILEY. Yes, sir.

Mr. ANTHONY. Thank you. I yield back.

Chairman PICKLE. I will pursue that. If some individual said turn the clock back, it would have to be a high ranking Customs official, would it not?

Mr. LANE. Sir, counsel is advising us not to provide any more information on the individual who did that.

Chairman PICKLE. Was it you, Mr. Lane, that ordered that?

Mr. LANE. No, I didn't.

Chairman PICKLE. Was it the Commissioner?

Mr. LANE. No.

Chairman PICKLE. You said in your opinion it was not either one of you or are you making a contradiction?

Mr. LANE. I am saying I didn't do it and——

Chairman PICKLE. I will put you under oath but we think this committee is entitled to know who would make a decision like that.

Mr. LANE. Sir, we can't answer that question about who made that decision.

Chairman PICKLE. Mr. Lane, we will get that information.

Mr. LANE. We will provide it when we can, sir.

Chairman PICKLE. We will present that to you again. Now, let me ask you, in your statement you said earlier in the embezzlement case in Los Angeles or in the Chicago district, you said the Chicago district had 10 missing deposits totaling so much money. It was allegedly stolen by an employee of the messenger service and we expect to recover all losses.

How, Mr. Lane, are you going to recover this $3 million in losses?

Mr. LANE. Well, our Internal Affairs Office is conducting the investigation. As you know, we had over $3 million stolen—$840,000 stolen in Los Angeles, and in each of those cases Internal Affairs investigated and in one of them we got it all back but $35,000. We believe that we can be successful in getting some of this other money back. We already have part of it.

Chairman PICKLE. In the Los Angeles case, you said the employee had allegedly stolen over $840,000. Now, there isn't any allegation to that. There has been a trial on it and she has been convicted.

Mr. LANE. I am sorry. That might be a poor choice of terms. There is no doubt that that money was stolen and I guess the employee was convicted, you are right.

Chairman PICKLE. I get the feeling from your statement, well, we had all these but we are going to get this money back or most of it. Do you believe that?

Mr. LANE. I don't know if we will get the money back or if we will get all of it back. I do know that we will take action to prevent that sort of thing in the future.

Chairman PICKLE. Would you bet your job on the fact that you hope to get most or you will get most of this money back?

Mr. LANE. I may be getting it, sir, I don't know.

Mr. RILEY. Mr. Pickle, in the Chicago incident we have recovered already all but about $25,000 of that.

Chairman PICKLE. Of which one? Chicago?

Mr. RILEY. Chicago. There is one check remaining for $170 and the cash for $24,000 and a claim has been filed against the messenger service for recovery of the cash.

Chairman PICKLE. Are you saying to me that in the Chicago case with respect to the $3.3 million in checks that you recovered all but about $25,000?

Mr. RILEY. That is correct.

Chairman PICKLE. That is correct? Where did you find the checks? In the employee's possession?

Mr. RILEY. No, sir. We have to be able to recreate deposits and in recreating the deposits we knew who had paid checks and we went back to them and got replacement checks.

Chairman PICKLE. All right. When you said in the Los Angeles case that the employee was apprehended and tried for this embezzlement, the trial judge said that it was a situation created by the Custom Service which enabled one without great skill to commit these various violations. Is that correct?

Mr. LANE. I think that is a correct statement.

Chairman PICKLE. Well, then if it is correct, obviously you have got to change your control or your system, because if some person, just an average, small-graded or lower-level employee can do this, then you are subject to this type of attack almost any time. Now, Mr. Lane, with respect to the task force, who appointed the task force?

Mr. LANE. I did.

Chairman PICKLE. The 12-member task force?

Mr. LANE. It may be more than 12, Mr. Chairman.

Chairman PICKLE. Approximately. You appointed them.

Mr. LANE. Yes.

Chairman PICKLE. And as I understand it, you told the committee one man, Mr. McDonald, is the chairman of it.

Mr. LANE. That is correct.

Chairman PICKLE. That is the only name you can recall, yet you appointed them?

Mr. LANE. No. No. I have other names, sir.

Chairman PICKLE. Oh, I see. I thought they were asking you that earlier and you said you didn't have them.

Mr. LANE. I am sorry if I did. I gave the offices that were represented on it. I do have names of a number of the employees that are represented on it.

Chairman PICKLE. But you said earlier that you did not recall and now your staff reminds you you can recall.

Mr. LANE. No, sir. I have a list here of some of them.

Chairman PICKLE. We are not trying to pass judgment on them but we do want to know who appointed them, with the Commissioner's approval.

Mr. LANE. Well, I appointed the head of that task force in conjunction with him and Mr. Riley, we jointly appointed these other members.

Some of them were already working on it. When I started this effort 3, 4, or 5 months ago, Mr. Riley was already well into addressing these issues and I think we pointed out of the 157 deficiencies pointed out in the FPFI report, 131 of them have been corrected.

So there was a going effort and task force. I just came in and appointed some one to provide oversight to that and give him authority to run it, report to me and move people in and out of it as he saw fit. One of the things that we are doing now is bringing people in from the field to have financial control responsibilities.

Chairman PICKLE. Well, Mr. Lane, let me make this overall statement. This committee should recognize, and we do recognize, the collections system of Customs is very complex. You are in over 300 ports and hundreds and hundreds of people are making these collections at all different levels.

It is a difficult question to handle. So I don't think we have any right, and this afternoon, to just pass judgment there is no control, there is no organization down there because it is a difficult task.

But it has been going on now for several years and not getting much better. Maybe the trend a little bit, if it is only 53 compared to a bigger figure, maybe it has come down some. But it makes us wonder sometimes when we hear these statements today and the uncertainty with which we received answers, that you are more interested in, say, drug apprehension than you are in the collections and the money going into the Treasury.

Now that just is kind of a reaction on my part but I wonder if you aren't chasing the drugpusher more than you are trying to control these collections and forfeitures.

We have a lot of questions to ask. We may have to have a more thorough investigation of all of these things, put some of the witnesses under oath.

We think there is enough irregularity and looseness going on that we ought to pursue this further.

I think we should do it. Every member of this committee that I know of is concerned at the attitude you might have about changing your system. I think some times the Customs Office has become such a strong gung-ho group, macho, if you please, that sometimes we lose sight of basic accounting principals. Whatever it takes, we have got to change the system and this task force, I hope, will produce something worthwhile and that system can be changed.

We have spent a lot of money trying to change it over the past several years, but we haven't done much improvement.

I would think we better concentrate on these things and do it quickly because this committee is not going to stop looking at Customs and what you have done in the past and some new approaches.

Mr. LANE. I agree with you, Mr. Chairman. I would say this. I mentioned it while you were out of the room.

The Secretary of the Treasury has expressed his interest and concern in these same areas. The Deputy Secretary has also.

The Acting Assistant Secretary has met with us and is meeting with us on a regular basis to fix this up. Your hypothesis that we have spent more time concerned about drug enforcement, concerned about facilitation, concerned about the commercial practices is exactly right.

I would have to say the concerns this committee has rightly pointed out to us are deficiencies in the Customs Service. They have been pointed out to us before and we do have the resolve and determination to fix them and we are making the investment not only of money as we have in the past but management attention as we have failed in the past.

Chairman PICKLE. Well, I thank you for that comment and for your recognition that we have got to redirect some of our emphasis here in fairness to the taxpayer who is actually paying the duties and the tariffs who are entitled to better service. And the public is entitled to some guarantee that the funds we collect are deposited.

So I will say to you we will have additional hearings on this subject and we will be meeting with you regularly. Mr. Schulze, do you have any other questions at this point?

Mr. SCHULZE. No, Mr. Chairman, only as a bottom line. I have got to say to Customs that I am concerned about the treatment Ms. Gibbs received when she was brought onboard and Treasury said to her—at least if this is borne out—they have problems over there and your job is to go over there and straighten them out and when she brought those problems forth, instead of standing up and saying, yes, by George, let's see what we can do, then going to the Appropriations Committee and saying we have this anomaly, it is wrong, it has been going on, we want to change it, can you give us some money to help us?

Instead of doing that, if what you did was say no, we are going to try to sweep this under the rug, we are not going to like it one bit. The treatment accorded to her, maybe the treatment accorded to some others as this thing goes along. So just beware in the bureaucracies because if you live by the sword, you die by the sword.

Thank you, Mr. Chairman.

Chairman PICKLE. Well, it has been a long hearing. We thank you for your cooperation.

The committee stands adjourned.

[Whereupon, at 6 p.m. the hearing was adjourned.]

○